

TRANSCRIPT OF PROCEEDINGS

SUPREME COURT OF THE UNITED STATES

DECEMBER TERM, 1923

No. 201

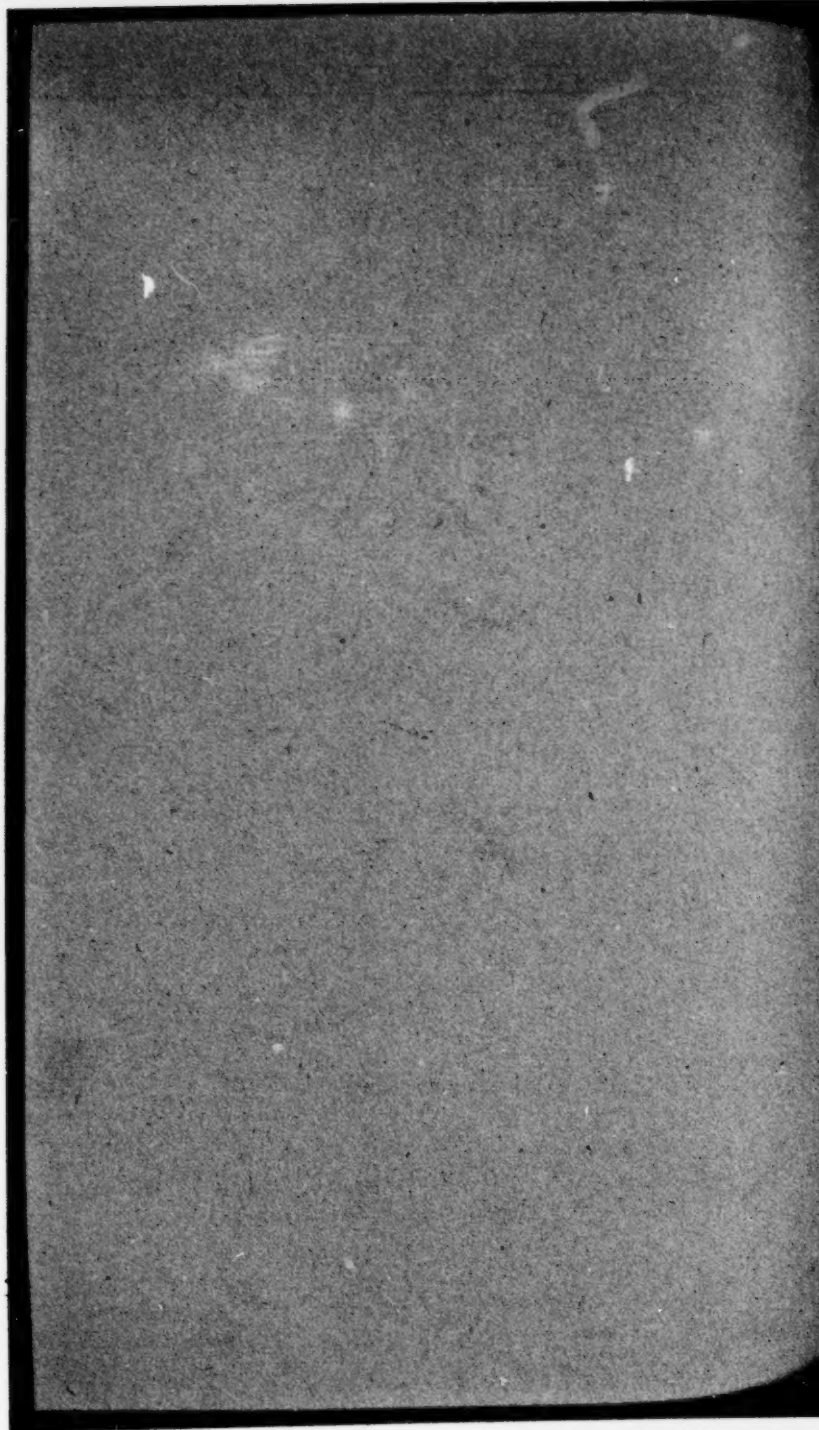
CHARLOTTE HARBOR AND NORTHERN RAILWAY
COMPANY, PLAINTIFF IN ERROR,

G. WELLES ET AL., AS AND CONSTITUTING THE BOARD
OF COUNTY COMMISSIONERS OF DE SOTO COUNTY,
FLORIDA.

REPORT TO THE SUPREME COURT OF THE STATE OF FLORIDA.

FILED NOVEMBER 21, 1924

(27,354)



(27,354)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1919.

No. 599.

CHARLOTTE HARBOR AND NORTHERN RAILWAY
COMPANY, PLAINTIFF IN ERROR,

vs.

W. G. WELLES ET AL., AS AND CONSTITUTING THE BOARD
OF COUNTY COMMISSIONERS OF DE SOTO COUNTY,
FLORIDA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF FLORIDA.

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and the General Statutes of Florida applicable thereto, the said territory to be so constituted in the said special road and bridge district being embraced in Road District No. 3 and in County Commissioners' District No. 3, in De Soto County, Florida, the said territory included in said proposed district being as follows:

Beginning at mid-channel of Peace River dividing Townships Thirty-nine (39) and Forty (40) South, thence East on said line to Lake Okeechobee, thence Southerly on East boundary line of De Soto County Line to Lee County line, thence West on line dividing De Soto and Lee Counties to the channel of Charlotte Harbor, thence Northerly along the channels of Charlotte Harbor and Peace River to point of beginning.

Your orator further shows unto your Honor that in and by said petition it was set forth in general terms a description and proposed location of the roads and bridges to be constructed by virtue of the creation of the said special road and bridge district.

Your orator further shows unto your Honor that the estimated amount necessary to be raised for the construction of said roads and bridges as described in said petition and as stated therein was Two Hundred Thousand (\$200,000.00) Dollars, and it was in said petition also specified that said roads and bridges should be paid for by the issuance and sale of special road and bridge bonds, and not by a levy and collection of a special road and bridge tax, the said special road

and bridge bonds to be issued and sold in the manner provided for in the said act of the legislature above referred to, and all provisions of general statutes relating thereto.

Your orator further shows unto your Honor that upon the filing of said petition such proceedings were had and taken by the County Commissioners of De Soto County, Florida, as were required by law, and an election was duly called and held and resulted in the said Special Road and Bridge District being created and bonds being voted by the qualified electors in said territory affected thereby, as prescribed by law, and thereafter said bonds were issued and sold and the proceeds thereof duly expended in the construction of permanent roads and bridges, as provided in said petition and proceedings in pursuance thereof, and your orator hereto attaches and marks the same Exhibit "A," and prays that the same be taken as a part of this, your orator's bill of complaint, a duly certified transcript of the record of the said proceedings leading up to the creation of said Special Road and Bridge District and the issuance and sale of said bonds.

Your orator further represents unto your Honor that there is attached hereto and made a part hereof a blue print or map, upon which is indicated by marking in red lines the territory included in said Special Road and Bridge District as created by said proceedings, the said map or blue print being marked for purpose of identification exhibit "B."

Your orator further represents unto your Honor that the real and personal property located in said Special Road and Bridge District so created is subject to taxation, not only for general purposes, but for the payment of the principal and interest of said bonds, and that said property is and has been since the creation of said Special Road

4 and Bridge District duly assessed for purposes of taxation by the County of De Soto for the payment of said principal and interest on the bonds so issued.

Your orator further represents unto your Honor that afterwards, to-wit, at the meeting of the County Commissioners for De Soto County, Florida, held on the 7th day of February, A. D. 1916, a petition purporting to be signed by twenty-five (25) per centum of the duly registered voters of a certain territory in De Soto County, Florida, who are free-holders, was presented to the said County Commissioners, praying for the creation of a special road and bridge district to include certain territory hereinafter described and to construct certain hard surfaced roads and bridges in said proposed district and to create an indebtedness therefor in the payment of the cost thereof to an estimated amount of One Hundred and Thirty Thousand (\$130,000.00) Dollars, the same to be paid for by the levy and collection of a Special road and bridge tax to be levied in the manner provided for by Chapter 6208 of the Acts of the legislature of the State of Florida passed and approved the 3rd day of June, 1911, as amended by the Legislature of Florida, 1915, and the General Statutes of Florida applicable thereto, and that upon the said petition being presented a committee was appointed by the said Board of County Commissioners of De Soto County, Florida, to ascertain if said petition contained the required number of signatures, and thereafter said committee duly reported to the said Board of County Commissioners that the said petition did contain the said required number of signatures, and thereafter such proceedings were had and taken before the said Board of County Commissioners that a proposed special road and bridge district, as prayed for in said petition, including
5 the following territory in De Soto County, Florida, to-wit:

All of Township Forty (40) South in Ranges Twenty-one (21), Twenty-two (22) and Twenty-three (23) East; and all of Township Forty-two (42) South in Ranges Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24) and Twenty-five (25) East; and all of Township Forty-two (42) South in Ranges Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24), Twenty-five (25) and Twenty-six (26) East;

was attempted to be constituted, and thereafter an election was called, substantially in form as provided by law, to determine whether or not the said road and bridge district should be created and the indebtedness required for the purpose of building and constructing the roads and bridges so proposed in said petition incurred, and thereafter said pretended election was held, and at a meeting of the said Board of County Commissioners held on the 21st day of March, 1916, the returns of said election were canvassed and it was found upon the face of said returns that a majority vote had been cast in favor of establishing said special road and bridge district, and thereupon it was declared and ordered by the said Board of County Commissioners of De Soto County, Florida, that the majority of votes cast in said election was in favor of the creation of said special road and bridge dis-

trict within said territory; the cost of construction of roads and bridges therein, estimated to amount to One Hundred and Thirty Thousand (\$130,000.00) Dollars, to be paid for by the levy and collection of a special road and bridge tax; that the said special road and bridge district be created and established and the same
 6 be designated as Charlotte Harbor Special Road and Bridge District, the boundaries of said district being more particularly set forth in said resolution as follows:

Beginning at the Northeast corner of Township Forty (40) South, Range Twenty-three (23) East, thence West along Township line to the Northwest corner of Township Forty (40) South, Range Twenty-one (21) East, thence South to the Southwest corner of Township Forty (40) South, range Twenty-one (21) East, thence West along the Township line to the Gulf of Mexico, thence southeasterly along the Gulf of Mexico to the South line of Township Forty-two (42) South, Range Twenty (20) East, thence East along the South line of Township Forty-two (42) South, to the Southeast corner of Township Forty-two (42) South, Range Twenty-six (26) East, thence North to the Northeast corner of Township Forty-two (42) South, Range Twenty-six East, thence West to the Northwest corner of Township Forty-two (42) South, Range Twenty-six (26) East, thence north to the Northeast corner of Township Forty-one (41) South, Range Twenty-five (25) East, thence West to the Southwest corner of Township Forty (40) South, Range Twenty-three (23) East, thence North to Place of beginning;

all of which will more fully appear by a certified transcript of the record of the said proceedings attempting to create the said Charlotte Harbor Special Road and Bridge District, hereto attached, marked Exhibit "C," and prayed to be taken as a part of this bill of complaint.

Your orator further represents unto your Honor that the territory included in the said Charlotte Harbor Road and Bridge District attempted to be created as aforesaid overlaps certain territory included in said Punta Gorda Road and Bridge District theretofore created,
 7 the said territory included in said Charlotte Harbor Special Road and Bridge District being indicated on the blue print hereto attached in lines marked in yellow.

Your orator further represents unto your Honor that it is the owner of real and personal property within the boundaries of said pretended Charlotte Harbor Special Road and Bridge District, and that said property is subject to taxation for all governmental purposes, including special road and bridge taxes, that may be legally levied against other property located within the said supposed road and bridge district, and that various assessments and levies of taxes have been made by the authorities of De Soto County against its said property for the purpose of paying the principal and interest of the indebtedness attempted to be created for the construction of roads and bridges in said Charlotte Harbor Road and Bridge District aforesaid; wherefore, your orator avers that it is materially interested in and affected by the creation of said Charlotte Harbor Road and Bridge District and the assessment, levy and collection

of taxes for the purpose of paying the principal and interest of the indebtedness incurred in building the roads and bridges therein.

Your orator further represents unto your Honor that the said County Commissioners of De Soto County, Florida, after passing the resolution attempting to create said Charlotte Harbor Special Road and Bridge District aforesaid, let certain contracts for the construction of roads and bridges in said District, and allowed and permitted contractors to whom said contracts were let to commence the construction of said roads and bridges and has issued approximately Sixty Thousand (\$60,000.00) Dollars of warrants in the

8 form attached to Exhibit "C" hereto, purporting to be an obligation payable out of taxes to be assessed, levied and collected against property in said supposed Charlotte Harbor Special Road and Bridge District, and has delivered the said warrants to the said contractors on account of the contract price of said work.

Your orator further represents unto your Honor that the said defendants, as County Commissioners of De Soto County, Florida, have heretofore made levies of taxes on the lands and property in said supposed Charlotte Harbor Special Road and Bridge District for the purpose of paying the principal and interest of the indebtedness attempted to be created in building said road and bridges in said supposed Charlotte Harbor Road and Bridge District, and have paid divers large sums of money so collected on account on the cost of said work.

Your orator further represents unto your Honor that, unless enjoined and restrained by decree of this Honorable Court, the said defendants will continue to levy and collect and so disburse moneys through taxation on the property in said supposed Charlotte Harbor Special Road and Bridge District, and will continue to issue warrants as aforesaid, until the roads and bridges as proposed in the creation of said supposed Charlotte Harbor Special Road and Bridge District have been completed, and will thereafter cause to be assessed, levied and collected taxes against the property included in said supposed district for the purpose of paying the principal and interest of the indebtedness created thereby.

Your orator further represents unto your Honor that the said supposed Charlotte Harbor Special Road and Bridge District was illegally attempted to be created, because a substantial part of the

9 territory included therein had already been included within the said Punta Gorda Special Road and Bridge District, and

was at the time of the attempt to create said Charlotte Harbor Special Road and Bridge District subject to indebtedness, and the property therein was then being taxed for the purpose of the payment of indebtedness incurred through the construction of roads, etc., under the creation of said Punta Gorda Special Road and Bridge District, and, as required by law, all special taxes assessed and collected upon property within the said Punta Gorda Special Road and Bridge District must be applied solely to the construction, repair and maintenance of the roads and Bridges in said Punta Gorda Special Road and Bridge District, or to the payment of the interest and sinking fund of bonds that were issued for the construc-

tion of said roads and bridges in said Punta Gorda Special Road and Bridge District, and the said defendants, as County Commissioners for De Soto County, Florida, have no authority, under the law, to create or permit to be created another and subsequent road and bridge district overlapping and including therein any of the territory embraced within said Punta Gorda Special Road and Bridge District; wherefore, your orator says that the said defendants, as County Commissioners of De Soto County, Florida, have no legal authority to assess or cause to be assessed, or to levy or cause to be levied against property located within the boundaries of said supposed Charlotte Harbor Special Road or Bridge District, or to apply any moneys collected through taxation to the payment of any warrants or other obligations attempted to be contracted for the building of roads and bridges in pursuance of the supposed creation of said Charlotte Harbor Special Road and Bridge District, but, as aforesaid, unless enjoined by decree of this Honorable Court, the said defendants will continue to assess, levy and collect taxes for said purpose and will expend moneys collected from the special tax provided for in the creation of said supposed Charlotte Harbor
10 Special Road and Bridge District for the payment of obligations created by said work.

Your orator further represents unto your Honor that the said defendants are continuing to contract obligations for the work proposed by the creation of said supposed Charlotte Harbor Special Road and Bridge District, and are continuing to pay out moneys realized from taxation of property in said supposed district therefor, and that unless enjoined from so doing pendente lite, will continue to pay out the said public moneys illegally in large sums before this cause can be finally heard and determined, wherefore it is necessary that a temporary restraining order be issued to enjoin and restrain the said defendants from doing any further work or contracting any further obligations for the payment of moneys on account of work proposed in the creation of said supposed Charlotte Harbor Special Road and Bridge District.

Your orator further represents unto your Honor that all assessments and levies of taxes for the purpose of constructing said roads and bridges in said Charlotte Harbor Special Road and Bridge District are illegal and void and the defendants should be enjoined from enforcing the same, as well as from making any other or further such levies or assessments or from paying any of the principal or interest of the warrants or any other obligations heretofore issued or contracted in connection with said work.

The premises considered, your orator prays that the said defendants W. G. Wells, L. W. Whitehurst, D. L. Skipper, W. M. Whitten and J. W. Bullock as and constituting the Board of County Commissioners of De Soto County, Florida, may be required to make full, true, direct and perfect answer unto all and singular the allegations in this, your orator's bill of complaint contained, but not under oath, the answer under oath being hereby expressly waived; that
11 your Honor may decree that the attempted creation of the said Charlotte Harbor Special Road and Bridge District is wholly null and void and without authority of law, and

that the defendants may be forever enjoined and restrained from contracting any further obligations of any character whatsoever for the building of roads and bridges in pursuance of the plan proposed in the creation of said supposed Charlotte Harbor Special Road and Bridge District, and may be forever enjoined and restrained from paying out any funds in settlement of any supposed obligations contracted for work done in pursuance of the plan proposed in the attempted creation of said special road and bridge district, and that said defendants may be enjoined, until the final hearing in this cause, from contracting any further obligations or paying out any further moneys on account of the construction of roads and bridges under the plan proposed in the creation of said supposed Charlotte Harbor Special Road and Bridge District, and that your orator may have such other and further relief as equity may require and as to your Honor shall seem meet.

May it please your Honor to grant unto your orator the State's most gracious writ of subpoena, directed to the said defendants W. G. Wells, L. W. Whitehurst, D. L. Skipper, W. M. Whitten and J. W. Bullock, as and constituting the Board of County Commissioners of De Soto County, Florida, requiring them and each of them on a day to be therein named and limited, personally to be and appear before this honorable Court, and then and there make full, true, direct and perfect answer unto all and singular the allegations in this your orator's bill of complaint contained, but not under oath, the answer under oath being herein and hereby expressly waived, and further to stand to, abide by and perform such other and further decrees in the premises as to your Honor shall seem meet and as equity may require.

McKAY & WITHERS,

TREADWELL & TREADWELL,

Solicitors for Complainant.

12 STATE OF FLORIDA,
Hillsborough County:

Before me, the undersigned authority, this day personally appeared T. W. Parsons, who being by me duly sworn, says that he is Second Vice President and General Manager of Charlotte Harbor & Northern Railway Company, a corporation, complainant in the foregoing bill of complaint, and duly authorized to and does make this affidavit on behalf of said complainant. Affiant further says that he is familiar with the contents of the foregoing bill of complaint, and that all the matters and things therein stated by way of positive averment are true, and that all matters and things therein stated upon information and belief he believes to be true. Affiant further says that unless the defendants are enjoined as prayed in said bill during the pendency of this suit, they will continue to pay out moneys and contract obligations illegally as complained of in said bill.

T. W. PARSONS.

Sworn to and subscribed before me this 11th day of February,
A. D. 1918.

BLANCHE ALLGOOD, [SEAL.]

Notary Public.

Punta Gorda Special Road and Bridge District.

Petition.

To the Honorable Board of County Commissioners of De Soto County, Florida:

Your petitioners respectfully represent unto your Honorable Board that they are residents and free holders of the territory in said
 13 De Soto County, Florida, hereinafter described, and that they constitute and represent twenty-five per cent, and upwards of the duly registered voters of said territory who are free holders, that they desire to have said territory hereinafter described constituted into a Special Road and Bridge District, and to have constructed within said Road and Bridge District permanent roads and bridges as provided for and in accordance with the provisions of Chapter 6208 of the Acts of Legislature of the State of Florida, passed and approved on the 3rd day of June, 1911, and the general statutes of the State of Florida applicable thereto, and that said territory so described to be constituted into said special road and bridge district is embraced in Road District No. 3, and in County Commissioners' district No. 3, in De Soto County, Florida, which said territory to be embraced in said Special Road and Bridge District is described by metes and bounds as follows:

Beginning at mid-channel of Peace River dividing Townships 39 & 40 S. Thence East on said line to Lake Okeechobee, thence Southerly on East Boundary line of De Soto County line to Lee County line, thence West on line dividing De Soto and Lee Counties to the Channel of Charlotte Harbor, thence Northerly along the channels of Charlotte Harbor and Peace River to point of beginning.

Your petitioners further show to your Honorable Body that the following is in general terms a description and proposed location of the Roads and Bridges to be constructed by virtue of the creation of said special Road and Bridge District.

Clay, Marl or Rock Roads.

14 Beginning on the Punta Gorda and Fort Ogden public road at the N. W. Corner of Twp. 40 S. R. 24 E. thence due South on Range line dividing R. 23 and 24 East to a point on said range line South of Shell Creek where said public road turns in a South Westerly direction, thence following said public road in said direction to where said road turns North to Pine Apple Center on Atlantic Coast Line R. R. thence crossing said railroad in a Northerly direction thence to N. E. Corner of B. A. Wachob's Pinery, thence West on original County Road to intersection of Marion Ave. in the town of Punta Gorda.

Then commencing on rock road south of Punta Gorda where the same crosses the section line dividing sections 7 & 8 in Twp. 41 S. R. 23 E. and running in a Southeasterly direction following said rock road to where it intersects the section line dividing sections 21

& 22 same Twp. and Range thence South on said line dividing Sections 21 & 22, 27 & 28 to the S. E. Corner of the N. E. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Section 28 in same Twp. and range, thence West on the Quarter-quarter section line, to the S. W. Corner of the N. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of Section 28 same Twp. and Range, thence due North on line dividing Secs. 28 & 29, 20 & 21, 16 & 17 to where said line intersects the original rock road leading in a Southeasterly direction of Punta Gorda.

Specification for the above roads to conform as nearly as possible to Report on Proposed system of Improved roads for De Soto County, Fla., made by Mr. W. J. R. Weir, Engineer from the United States Office of Public Roads, dated 6th day of February, 1913, except that marl surface shall be at least ten (10) inches when loose and eight (8) inches after rolling.

15 Beginning on the Fort Ogden and Punta Gorda Road where said road crosses Twp. line dividing Twp's 40 & 41 S thence east on said Twp. line to the S. E. Corner of Section 33 Twp. 40 S. Range 26 E.

Beginning at intersection of Fort Ogden and Punta Gorda public road with Cleveland Ave., in West half of N. W. $\frac{1}{4}$ Section 35 Twp. 40 S., Range 23 E. thence running in a northerly direction on Cleveland Ave. to south shore of Peace River.

Beginning on range line dividing ranges 23 & 24 East at the N. W. Cor. of Section 30 Twp. 40 S. R. 24 E. and running East on section line dividing Sections 19 & 30, 20 & 29, to N. E. Cor. of the N. W. $\frac{1}{4}$ of Section 29 same Twp. and Range.

Beginning at the North end of Keys street in the town of Hall City, Fla., Section 28, Twp. 41 S. R. 30 E. and following South on Keys street to East Central Avenue, thence West on East Central Avenue, to South Main Street, thence South on South Main Street to Kansas Ave., thence West on Kansas Ave., to north-west corner of north east $\frac{1}{4}$ of Sec. 32, same township and range, thence south on half section line to the south east corner of the southwest $\frac{1}{4}$ section 17, Tp. 42 S. R. 30, E. thence west on section line to the south west corner Sec. 13, Tp. 42 S. R. 29 East, thence south on section line to the S. E. Corner of the N. E. $\frac{1}{4}$ of Sec. 26, same Tp. and Range, thence west to the N. E. Corner of the S. E. $\frac{1}{4}$ of Sec. 28, same Tp. and Range, thence south to the S. E. Corner of Same Section, Tp. and Range, thence west to the N. W. Corner of Sec. 32, same Tp. and Range.

The beginning where this road intersects the public road to La Belle from north La Belle and following said La Belle road in a southwesterly direction over said public highway to the bridge across Caloosahatchee River.

Specification for above roads to conform as nearly as possible to Engineer's report referred to without exception.

16 Beginning at eastern limit of the Town of Punta Gorda, Florida, at Junction of Marion Ave., and Fort Ogden Public road, and following on Marion Ave. to Berry Street, then beginning at southern limit of the Town of Punta Gorda at the Junction of Junta Gorda and Acline rock road with the Town limits and follow-

ing said Rock Road in a northwesterly direction to Taylor street, thence northwesterly on Taylor Street to Retta Esplande.

The grading of above roads shall conform to width and grade of Town streets, the hard surface shall be 20 feet wide and shall be constructed with a crushed or broken rock base which shall be 6 inches deep when compactly rolled, and surfaced with marl which shall be 4 inches deep when compactly rolled making a total depth of ten inches when rolled and finished.

Graded Roads.

Beginning at the S. E. Corner of the N. E. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Sec. 28, Tp. 41 S., Range 23 East, running south on section line dividing section 27 and 28 to east boundary of the A. C. L. Railway right of way, thence southeasterly along said right of way to township line dividing Twp. 41 and 42 South, thence East on said township line to the range line dividing Ranges 25 & 26 E.

Then beginning at S. E. Corner Sec. 33, Tp. 40 S., Range 25 East, and run north on Sec. line to the S. E. Corner of Sec. 16, same Tp. and Range.

Then beginning at the southeast corner Section 33, Tp. 40 S., Range 26, E. and running east on Tp. line to Northeast corner of Section 6 Tp. 41 S., R., 29 E., thence south on Section line dividing Sections 5 & 6 to southwest corner Sec. 5, same Tp. and Range, thence

East following Section line to N. E. corner of N. W. $\frac{1}{4}$ Sec. 9, 17 Tp. 41 S., R. 30 E., thence in a northerly direction to the N. W. corner of the S. W. $\frac{1}{4}$ of Section 3 same Tp. and Range, thence east on half section line to tract 30, Sec. 4, Tp. 41 S. R. 30 E., intersecting Juniper Ave., town Palmdale, Fla., thence north on Juniper Ave., to 3rd street, thence east on 3rd Street to Main Street, thence north on Main street to Tp. line dividing Tps. 40 and 41 S.

Then beginning at the N. E. corner of the N. E. $\frac{1}{4}$ of Sec. 9, Tp. 41 S. R. 30 E., thence south to the intersection of Keys Street in Hall City, Fla., Sec. 28, same Tp. and R.

Then beginning at N. W. corner of N. E. $\frac{1}{4}$ of Sec. 20, Tp. 42 S. R. 30 E., and running east on Sec. line to S. E. corner of S. W. $\frac{1}{4}$ thence north to the N. E. corner of the S. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ Sec. 15 same Tp. and Range, thence east to N. E. corner of the S. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Sec. 14, same Tp. and Range, thence south to the S. E. corner of Section 14, same Tp. and Range, thence east on section line to the N. E. corner of the N. W. $\frac{1}{4}$ of Sec. 20 Tp. 42 S., Range 31 E., thence south to the town of Citrus Center, Florida.

Then beginning at N. E. corner of the N. W. $\frac{1}{4}$ of Sec. 29 Tp. 40 Range 24 East, thence south to the S. W. corner of the same $\frac{1}{4}$ section, thence east to the S. E. corner of the N. E. $\frac{1}{4}$ of Sec. 27, same Tp. and Range, thence north along Section line to the N. W. corner of the S. W. $\frac{1}{4}$ of Sec. 23, same Tp. and Range.

Then beginning in the town of Cleveland, Florida, where First Street intersects Cleveland Avenue, thence S. W. on said First Street to the Town limits, thence continuing in a southwesterly direction between the A. C. L. Railroad right of way and Peace river to where

18 this line strikes the right of way of said railroad, thence following and adjoining said right of way to the public road running west between T. C. Crossland's and Hall's pineries, then following this road to the N. E. corner of B. A. Wachob's pinery.

The above roads shall be in accordance with the report referred to for graded roads.

Bridges.

In addition to culverts of 20 feet span or less there will be required the following bridges to wit:

One steel bridge at Myrtle creek on line between sections 19 and 30, Tp. 40 S. Range 24 East.

One steel bridge at Myrtle slough on Bermont Road on line between Tps. 40 and 41 South.

Four Steel or reinforced concrete bridges located on line of Punta Gorda and Ft. Ogden road at the four tide creeks crossing said road.

One steel bridge on Punta Gorda and Acline road crossing proposed canal located in N. E. quarter Sec. 17, Tp. 41 S., Range 23 East.

One steel or reinforced concrete bridge on line between ranges 23 and 24 East at Lee Branch on Punta Gorda and Fort Ogden public road.

One wooden bridge at Shell creek on line between sections 26 and 27 Tp. 40 S., Range 24 East.

One wooden bridge at Rainey Slough, Fisheating Creek road, on line between Tps. 40 and 41 South.

Four wooden bridges located on road leading from Citrus Center to North La Belle, Florida.

The final location and particular detail of the foregoing roads and bridges to be determined by the engineer in charge, such slight changes to be made by him as he may deem necessary to avoid points of difficulty which might increase cost.

19 The estimated amount which is necessary to be raised for the construction of said roads and bridges above described will be the sum of Two Hundred Thousand Dollars (\$200,000.00).

Your petitioners also specify that the cost of the building and construction of said roads and bridges is to be paid for by the issue of and sale of Special Road and Bridge Bonds and not by a levy and collection of a special road and bridge tax, the said special road and bridge bonds to be issued and sold in the manner provided for in the said Act of the State Legislature hereinbefore referred to, and all of the provisions of the general statutes applicable thereto.

Your petitioners therefore pray your Honorable Board that, at the first meeting of your Honorable Body after the receipt of this petition, to order an election to be held in said territory above described whether or not said territory shall be constituted into a special road and bridge district, as provided in Chapter 6208 of the Acts of the Legislature of 1911 above referred to, and if the result of said election shall be in favor of the proposition to create said special road and bridge district and to issue said special road and bridge bonds, then in that event your Honorable Board is hereby requested to designate and set apart said special road and bridge district, and to designate the same by name or number and to issue and sell said special

road and bridge bonds as provided for in this petition for the construction of said roads and bridges, and to select and appoint three suitable bond trustees who live within the boundaries of said special road and bridge district to carry out in manner and form the duties as provided for by them under the Act of the Legislature above referred to, and the general statutes thereto applicable, to the
 20 end that said special road and bridge district may be created and the roads and bridges above specified built and constructed as required by law.

Names.		Names.
R. C. Blount.		W. Render.
J. R. Corbett.		E. N. Brown.
A. M. Hatch.		H. A. Boyle.
C. S. Hall.		B. C. Hall.
H. R. Dreggors.		E. W. Lawson.
F. R. Blount.		T. C. Crossland.
J. M. Driver.		John Olsen.
R. C. Addison.		J. T. Griggs.
Geo. A. McLane.		John Sands.
A. F. Dewey.		H. W. Smith.
Joshua Mizell.		T. S. Delk.
W. R. DeLoach.		R. N. Caston.
T. J. Johnson.		S. C. Galer.
Chas. L. Fries.	21	C. G. Ponder.
J. R. Hurton.		H. Mobley.
J. H. Rasch.		Jack Davis.
Locke Addison.		Isaac Hampton.
C. G. Brown.		George Jolly.
A. P. Hatch.		T. W. Sanders.
J. H. Berry.		C. E. Weaver.
Geo. Stone.		H. W. Walker.
H. O. Sileox.		L. S. Rounders.
A. Symonette.		C. L. Pratts.
C. A. Carver.		M. H. Kemp.
J. N. Sikes.		R. B. Armstrong.
A. C. Jordan.		Rime Thomas.
A. P. Jordan.		John Venderlet.
Samuel Nail.		A. C. Dorsey.
W. M. Whitten.		A. C. Seymour.
J. S. Goff.		S. A. Giles.
J. H. Lipscomb.		M. C. Gallman.
Chas. W. Shaw.		W. M. Hutson.
S. F. J. Trabue.		A. Holcomb.
C. A. Engesser.		C. C. Cleveland.
Charles E. Fitzgerald.		C. Goodell.
J. M. Weeks.		H. Salberry.
J. N. Parker.		W. Whidden.
C. D. Richmond.		John T. Rose.
B. E. Perkins.		A. T. Dewey.
Chas. McWilliams.		F. M. Cooner.
B. A. Wacob.		J. J. McCann.
W. C. Hall.		E. Wotitsky.

Names.

Jas. McClelland.
C. E. Midgett.
J. A. Silcox.
T. S. Griggs.
O. A. Morgan.
E. K. Whidden.
M. V. Williams.
S. I. Huffman.
J. W. Newman.
Geo. D. Rhode.
D. N. McQueen.
J. G. Meyrick.
G. W. Wilson.

Chas. A. McLane.
H. L. Dotson.
Grove Cochran.
J. H. Hancock.
R. K. Seward.
C. A. Carlson.
P. O. Rickamn, Jr.
Clayton Porter.
E. A. Low.
D. A. Morres.
E. Weeks.
C. H. Gill.
W. H. Williams.
L. Oliver.
F. S. Strobar.
J. B. Harrison.
E. W. Roundtree.
J. L. Moyer.
P. O. Gautier.
J. A. Powell.
P. O. Rickamn, Sr.
H. C. Vogler.
W. N. Durac.
Lane Black.
H. R. Samuels.
F. M. Powell.
D. C. Smith.
J. G. Stokes.

Names.

S. P. Andrews.
Alex Stephens.
E. Ward.
John Smith.
A. Bailey.
T. T. Peck.
Thomas Evans.
C. Guess.
F. M. Glover.
P. W. Miller.
Sam Williams.
Lewis Roberts.
Con Rees.
Sam Kerday.
A. P. Jenkins.
Ben Henderson.
Newsome Corbitt.
E. D. Plowden.
Lamer Monroe.
J. H. Worth.
D. G. McCormick.
J. H. Buschhausen.
W. B. Redwine.
G. M. Strayhorn.
John R. Bukoutz.
D. J. Hobbs.
J. R. Sandlin.
C. D. Lundquist.
H. M. Davis.
Geo. O. Dewey.
Geo. Brown.
A. M. White.
Wm. Bassett.
O. Holmes.
D. H. Huckeby.
A. M. Bird.
F. T. Perkins.
P. W. McAdow.
W. L. Koon.
E. W. Smith.
J. C. Lewis.

Filing.

NOTE.—On the back of the above petition appears "Filed Oct. 7th, 1913. A. L. Durrance, Clerk."

County Commissioners Minute Book No. 4.

On page 295: The Honorable Board of County Commissioners met in regular session in their office at Arcadia, October 6th, A. D.

1913, with the following members present: V. W. Surrency, Chairman, Joseph Crews, John Hagan & H. J. Downing.

On page 297, October meeting: It was moved and carried that the petition calling for a bond election for Special Road and Bridge District submitted by the Citizens of Commissioners District number three be accepted and said election be called according to law and the said petition, on file in the Clerk's office.

On page 302: The Honorable Board of County Commissioners met in regular session at their office in Arcadia, 3th November A. D. 1913, with the following members present: V. W. Surrency, Chairman, John Hagan, Joseph Crews, H. J. Downing, W. G. Welles.

It appearing to the Board that at their first meeting after the receipt of the petition to create a special road and bridge district, 22 that said petition is regular, and is signed by not less than twenty-five per cent of the duly registered voters, who are free holders, within said proposed district, and the said proposed district is described as follows, to-wit:

Beginning at mid-channel of Peace River dividing townships thirty-nine and forty south, then east on said line to Lake Okeechobee, then southerly on east boundary of De Soto County line to Lee County line, then west on line dividing De Soto and Lee counties to the channel of Charlotte Harbor, thence northerly along the channel of Charlotte Harbor and Peace River to point of beginning:

It is therefore ordered that an election be called in the said territory, to determine whether or not said territory shall be constituted into a Special Road and Bridge District, and the proposed roads and bridges constructed and paid for as specified for in said petition.

On page 303:

Notice of the Calling of an Election to Create a Special Road and Bridge District in De Soto County, Florida.

Notice is hereby given that the County Commissioners of De Soto County, have called an election to be held at the usual polling places hereinafter named, in the proposed territory hereinafter described to be held on the 6th day of January, A. D. 1914, to determine whether the said proposed territory hereinafter described shall or shall not be constituted into a Special Road and Bridge District.

The territory to be embraced within the proposed Special Road and Bridge District is described as follows, to-wit: Beginning at mid-channel of Peace River, dividing townships thirty-nine and forty south, thence east on said line to Lake Okeechobee, thence 23 southerly on east boundary of De Soto County line to Lee County line, thence west on line dividing De Soto and Lee Counties to the channel of Charlotte Harbor, thence northerly along the channel of Charlotte Harbor and Peace River to point of beginning.

The roads and bridges proposed to be constructed within the said territory shall be as follows, to-wit:

Clay, Marl or Rock Roads.

Beginning on the Punta Gorda and Fort Ogden public road at the N. W. Cor. of Twp. 30 S. R. 24 E., thence due south on range line dividing R. 23 and 24 East to a point on said range line south of Shell Creek where said public road turns in a southwesterly direction, thence following said public road in said direction to where said road turns north to Pine Apple Center on Atlantic Coast Line R. R., thence crossing said Railroad in a northerly direction, thence to N. E. Corner of B. A. Wachob's pinery, thence west on original county road to intersection of Marion Ave. in the Town of Punta Gorda.

Then commencing on rock road south of Punta Gorda, where the same crosses the section line dividing Section- 7 & 8 in Tp. 41 S. R. 23 E. and running in a southeasterly direction following said rock road to where it intersects the section line dividing sections 21 & 22 same Tp. and Range, thence south on said line dividing sections 21 & 22, 27 & 28 to the S. E. corner of the N. E. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Section 28, in the same Tp. and range, thence west on the quarter section line to the S. W. corner of the N. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of Section 28, same Tp. and range, thence due north on line dividing Sections 28 & 29, 20 & 21, 16 & 17 to where said line intersects the original rock road leading in a southeasterly direction out of Punta Gorda.

Specifications for the above roads to conform as nearly as possible to report on proposed system of improved roads for De Soto County, Fla., made by W. J. R. Weir, Engineer from the United States office of Public Roads, dated 6th day of February, 1913, except that marl surface shall be at least ten (10) inches when loose and eight (8) inches after rolling.

Beginning on the Fort Ogden and Punta Gorda road where said road crosses Tp. line dividing Tps. 40 and 41 S. thence east on said Tp. line to the S. E. corner of Sections 33, Twp. 40 S. Range 26 East.

Beginning at the intersection of Fort Ogden and Punta Gorda public road with Cleveland Ave., in West half of N. W. $\frac{1}{4}$, Section 35, Twp. 40 S. Range 23 E., thence running in a Northerly direction on Cleveland Ave. to south shore of Peace River.

Beginning on range line dividing ranges 23 & 24, east, at the N. W. corner of Section 30, Twp. 40 S. R. 24 E. and running east on section line dividing sections 19 & 30, 20 & 29, to N. E. cor. of the N. W. $\frac{1}{4}$ of Section 29, same Twp. and Range.

Beginning at the north end of Keys street in the Town of Hall City, Fla., Section 28, Twp. 41 S. R. 30 E. and following south on Keys street to east Central Avenue thence west on east Central Avenue, to south Main Street, thence south on south Main Street to Kansas Ave., thence west on Kansas Ave., to northwest corner of northeast $\frac{1}{4}$ of Section 32, same township and range, thence south on half section line to the southeast corner of the southwest $\frac{1}{4}$ Section 17, Tp. 42 S. R. 30 E., thence West on Section line to the southwest corner of Sec. 13, Tp. 42 S. R. 29 East, thence south on Section line

25 to S. E. corner of the N. E. $\frac{1}{4}$ of Sec. 26, same Tp. and Range, thence west to the N. E. corner of the S. E. $\frac{1}{4}$ of Sec. 28, same Tp. and Range, thence south to the S. E. $\frac{1}{4}$ corner of same section, Tp. and Range, thence west to the N. W. corner of Sec. 32, same Tp. and Range.

Then beginning where this road intersects the public road to La Belle from North La Belle and following said La Belle road in a southwesterly direction over said public highway to the bridge across Caloosahatchee river.

Specifications for above road to conform as nearly as possible to engineer's report referred to without exception.

Beginning at eastern limit of the Town of Punta Gorda, Florida, at junction of Marion Ave., and Fort Ogden-Punta Gorda public road, and following on Marion Ave., to Berry Street, thence beginning at southern limit in the Town of Punta Gorda at the junction of Punta Gorda and Acline rock road with the Town limits and following said rock road in a Northwesterly direction to Taylor Street, thence northwesterly on Taylor Street to Retta Esplanade.

The grading of the above roads shall conform to width and grade of Town streets, the hard surface shall be 20 feet wide and shall be constructed with a crushed or broken rock base which shall be 6 inches deep when compactly rolled, and surfaced with marl which shall be 4 inches deep when compactly rolled making a total depth of ten inches when rolled and finished.

Graded Roads.

Beginning at the southeast corner of the N. E. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of Sec. 28, Tp. 41 S. R. 23 East, running south on section line dividing Sections 27 & 28, to east boundary of A. C. L. Railroad right of way, thence southeasterly along said right of way to township line dividing Tps. 41 and 42 South, thence east on said Township line to the range line dividing ranges 25 and 26 east.

26 Then beginning at the S. E. corner of Section 33, Tp. 40 S. Range 26 East, and run north on Sec. line to the S. E. corner of Sec. 16, same Tp. and Range.

Then beginning at the southeast corner of Section 33, Tp. 40 S. Range 26 East, and running East on Tp. line to northeast corner of section 6, Tp. 41 S. R. 29 E., thence south on Section line dividing Sections 5 & 6 to southwest corner Sec. 5, same Tp. and Range, thence east following section line to N. E. corner of N. W. $\frac{1}{4}$ Sec. 9, Tp. 41 S. R. 30 E., thence in a Northerly direction to the N. W. corner of the S. W. $\frac{1}{4}$ of Sec. 3, same Tp. and Range, thence East on half section line to tract 30, Sec. 4, Tp. 41 S. R. 30 E. intersecting Juniper Ave., Town of Palmdale, Fla., thence north on Juniper Ave., to 3rd Street, thence east on 3rd street to Main street, thence north on Main St., to Tp. line dividing Tps. 40 & 41.

Then beginning at the N. E. corner of the N. W. $\frac{1}{4}$ of Sec. 9, Tp. 41 S. R. 30 E., thence south to the intersection of Keys Street in Hall City, Fla., Sec. 28, same Tp. and R.

Then beginning at N. W. corner of N. E. $\frac{1}{4}$ of Sec. 20, Tp. 42, S.

R. 30 E., and running east on Sec. line to S. E. corner of S. W. $\frac{1}{4}$ thence North to N. E. corner of the S. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of Sec. 15, same Tp. and Range, thence east to N. E. corner of the S. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of Sec. 14, same Tp. and Range, thence South to the S. E. corner of Sec. 14, same Tp. and Range, thence east on Section line to the N. E. corner of the N. W. $\frac{1}{4}$ of Sec. 20, Tp. 42 S. R. 31 E., thence south to the town of Citrus Center, Florida.

Then beginning at the N. E. cor. of the N. W. $\frac{1}{4}$ of Sec. 29, Tp. 40 Range 24 E., thence south to the S. W. corner of the same quarter Sec., thence east to the S. E. corner of the N. E. $\frac{1}{4}$ of Sec. 27, same Tp. and Range, thence North along Sec. line to the N. W. cor. of the S. W. $\frac{1}{4}$ of Sec. 23, same Tp. and Range.

Then beginning in the Town of Cleveland, Florida, where First street intersects Cleveland Avenue, thence S. E. on said 27 First street to the town limits, thence continuing in a south-westerly direction between the A. C. L. Railroad and Peace River to where this line strikes the right of way of said railroad, thence following and adjoining said right of way to the public road running west between T. C. Crossland's and Hall's pineries, then following this road to the N. E. corner of B. A. Wachob's pinery.

The above roads shall be in accordance with the report referred to for graded roads.

Bridges.

In addition to culverts of 20 feet span or less there will be required the following bridges, to-wit:

One steel bridge at Myrtle creek on line between sections 19 and 30 Tp. 40 S. R. 24 East.

One steel bridge at Myrtle slough on Bermont road on line between Tps. 40 and 41 South.

Four steel or reinforced concrete bridges located on line of Punta Gorda and Ft. Ogden road at the four tide creek crossing said road.

One steel bridge on Punta Gorda and Acline road crossing proposed canal located in N. E. quarter, Sec. 17, Tp. 41 S. R. 23 East.

One steel or reinforced concrete bridge on line between ranges 23 and 24 east of Lee Branch on Punta Gorda and Fort Ogden public road.

One wooden bridge at Shell creek on line between Sections 26, and 27, Tp. 40 S. R. 24 East.

One wooden bridge at Rainey Slough, Fisheating Creek road, on line between Tps. 40 and 41 South.

Four wooden bridges located on road leading from Citrus Center to North La Belle, Florida.

28 The final locations and particular details of the foregoing roads and bridges to be determined by the Engineer in charge, such slight changes to be made by him as he may deem necessary to avoid points of difficulty which might increase cost.

The estimated amount which is necessary to be raised for the construction of said roads and bridges above described will be the sum of Two Hundred Thousand Dollars.

The cost of building and construction of said roads and bridges is to be paid for by the issuance of and sale of Special Road and Bridge Bonds.

The inspectors, managers and other officers presiding at said election, and at their respective precincts, shall be as follows.

Punta Gorda.

John Davis, F. T. Perkins, Charley McLane, Inspectors.
George McLane, Jr., Clerk.
J. H. Lipscomb, Deputy.

Cleveland.

J. C. Hobson, J. F. Dyers, Del Huckleby, Inspectors.
John Addison, Clerk.
Charley Goodell, Deputy.

Bermont.

James Turner, G. W. Gatewood, J. W. Hogan, Inspectors.
E. E. Bailey, Clerk.
J. W. Mercer, Deputy.

Citrus Center.

G. M. Strayhorn, E. W. Atwood, Robert Isenhardt, Inspectors.
Arthur Wolf, Clerk.
D. G. McCourier, Deputy.

29

North La Belle.

James Worth, T. T. Whidden, B. D. Stewart, Inspectors.
C. E. Weaver, Clerk.
George R. Cason, Deputy.

Affidavit of Publication.

STATE OF FLORIDA,
De Soto County:

Before me the undersigned officer authorized by law to take acknowledgements, personally appeared Andrew Carter who, being duly sworn, says that he is Publisher of The Enterprise, a newspaper published weekly at Arcadia, De Soto County, Florida, and that the advertisement hereto attached was inserted in the afore-said newspaper for five consecutive weeks, beginning on the 5th

day of December, 1913, and ending on the 2nd day of January, 1914, both inclusive according to law.

ANDREW CARTER,
Publisher of The Enterprise.

Sworn and subscribed to before me this the 22 day of January, 1918.

[NOTARY SEAL.]

B. VANCE,
Notary Public.

My commission expires on Apr. 13th, 1919.

Publication fee —.

Legal Advertisements.

Notice of the Calling of an Election to Create a Special Road and Bridge District in De Soto County, Florida.

Notice is hereby given that the County Commissioners of De Soto County have called an election to be held at the usual polling places hereinafter named, in the proposed territory, hereinafter described to be held on the 6th day of January, A. D. 1914, to determine whether the said proposed territory hereinafter described shall or shall not be constituted into a Special Road and Bridge District.

The territory to be embraced within the proposed Special Road and Bridge District is described as follows, to-wit:

Beginning at mid-channel of Peace River, dividing townships thirty-nine and forty south, thence east on said line to Lake Okeechobee, thence southerly on east boundary of De Soto County line to Lee County line, thence west on line dividing De Soto and Lee Counties to the channel of Charlotte Harbor, thence northerly along the channel of Charlotte Harbor and Peace River to point of beginning.

The roads and bridges proposed to be constructed within the said territory shall be as follows, to-wit:

Clay Marl or Rock Roads.

Beginning on the Punta Gorda and Ft. Ogden public road at the N. W. cor. of Twp. 40 S. R. 24 E., thence due south on range line dividing R. 23 and 23 east to a point on said range line south of Shell Creek where said public road turns in a southwesterly direction, thence following the said public road in said direction to where said road turns north to Pineapple Center on Atlantic Coast Line R. R., thence crossing said Railroad in a northerly direction, thence to N. E. corner of B. A. Wachob's Pinery, thence west on original county road to intersection of Marion Avenue in the town of Punta Gorda.

Then commencing on rock road south of Punta Gorda, where the same crosses the section line dividing section- 7 and 8 in Tw. 41, S. R. 23 E. and running in a southeasterly direction following said rock road to where it intersects the section line dividing sections 21 and 22 same Twp. and Range, thence south on said line dividing sections 21 and 22, 27 and 28 to the S. E. corner of the N. E. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Section 28 in same Twp. and range, thence west on the quarter section line to the S. W. corner of the N. W. $\frac{1}{4}$ of the N. W. $\frac{1}{4}$ of Section 28 same Twp. and Range, thence due north on line dividing sections 28 and 29, 20 and 21, 16 and 17 to where said line intersects the original rock road leading in southeasterly direction out of Punta Gorda.

Specifications for the above roads to conform as nearly as possible to report on proposed system of improved roads for De Soto County, Fla., made by W. J. R. Weir, Engineer from the United States Office of Public Roads, dated 6th day of February, 1913, except that marl surface shall be at least ten (10) inches when loose and eight (8) inches after rolling.

Beginning on the Fort Ogden and Punta Gorda road where said road crosses Twp. line dividing Twps. 40 and 41 S., thence East on said Twp. line to the S. E. corner of Section 33, Twp. 40 S., Range 26 East.

Beginning at intersection of Fort Ogden and Punta Gorda public road with Cleveland Avenue, in west half of N. W. $\frac{1}{4}$ Section 35, Twp. 40 S. R. 23 East, thence running in a northerly direction on Cleveland Avenue to south shore of Peace River.

Beginning on range line dividing ranges 23 and 24, east at the NW corner of Section 30, Twp. 40 S. R. 24 E., and running east on section line dividing sections 19 and 30, 20 and 29, to N. E. corner of the N. W. $\frac{1}{4}$ of section 29 same Twp. and Range.

Beginning at the north end of Keys street in the town of Hall City, Fla., section 28, Twp. 41 S. R. 30 E., and following south on Keys street to East Central Avenue, thence west on east Central Avenue, to south Main street, thence south on Main street to Kansas Avenue, thence west on Kansas Avenue to northwest corner of

32 northeast $\frac{1}{4}$ of section 32, same township and range, thence south on half section line to the southeast corner of the southwest $\frac{1}{4}$ section 17, twp. 42 s. r. 30 e., thence west on section line to the southwest corner of section 13, twp. 42 S. R. 29 East, thence south on section line to S. E. corner of N. E. $\frac{1}{4}$ of section 26, same Twp. and range, thence west to N. E. corner of the S. E. $\frac{1}{4}$ of section 28, same twp. and range, thence south to the S. E. corner of same section, township and range, thence west to the N. W. corner of section 23, same tp. and range.

Then beginning where this road intersects the public road to La Belle from North La Belle and following said La Belle road in a southwesterly direction over said public highway to the bridge across Caloosahatchee river.

Specification for above road to conform as nearly as possible to Engineer's report referred to without exception.

Beginning at eastern limit of the town of Punta Gorda, Florida,

at junction of Marion Avenue and Fort Ogden-Punta Gorda public road, and following on Marion Avenue to Berry street, then beginning at southern limit of the Town of Punta Gorda at the Junction of Punta Gorda and Acline rock road with the town limits and the following said rock road in a northwesterly direction to Taylor street thence northwesterly on Taylor street to Retta Esplanade.

The grading of above roads shall conform to width and grade of town streets, the hard surface shall be 20 feet wide and shall be constructed with a crushed or broken rockbase which shall be 6 inches deep when compactly rolled, and surfaced with marl which shall be 4 inches deep when compactly rolled making a total depth of 10 inches when rolled and finished.

Graded Roads.

Beginning at the southeast corner of the N. E. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of section 28, tp. 41 S. R. 23 East, running south on section line dividing section- 27 and 28, to east boundary of A. C. L. railroad right-of-way, thence southeasterly along said right-of-way to township line dividing tps. 41 and 42 south, thence east on said township line to the range line dividing ranges 25 and 26 east.

Then beginning at the S. E. corner of section 33, tp. 40 s., range 26 east, and running north on section line to the S. E. corner of section 16, same tp. and range.

Then beginning at the southeast corner of section 33, tp. 40 s., range 26 east, and running east on tp. line to northeast corner of section 6, tp. 41, s., r. 29 east thence south on section line dividing section- 5 and 6 to southwest corner section 5, same tp. and range, thence to east following section line to N. E. corner of N. W. $\frac{1}{4}$ section 9, tp. 41 s. r. 30 east, thence in a northerly direction to the N. W. corner of the S. W. $\frac{1}{2}$ of section 3, same tp. and range, thence east on half section line to tract 30, section 4, tp. 51, s. r. 30 east, intersecting Juniper avenue, Town of Palmdale, Fla., thence north on Juniper avenue, to 3rd street, thence east on 3rd street to Main street, thence north on Main street to tp. line dividing twps. 40 and 41.

Then beginning at the N. E. corner of the N. W. $\frac{1}{4}$ of section 9, tp. 41, s. r. 30 e., thence south to the intersection of Keys street in Hall City, Fla., section 28, same tp. and range.

Then beginning at N. W. corner of N. E. $\frac{1}{4}$ of section 20 tp. 42, s. r. 30 e., and running east on section line to S. E. corner of S. W. $\frac{1}{4}$, thence north to the N. E. corner of the S. E. $\frac{1}{4}$ of S. W. $\frac{1}{4}$ of section 15, same tp. and range, thence east to N. E. corner of the S. E. $\frac{1}{4}$ of the S. E. $\frac{1}{4}$ of section 14, same tp., and range, thence south to the S. E. corner of section 14, same tp. and range, thence east on section line to the N. E. corner of the N. W. $\frac{1}{4}$ of section 20, tp. 42, s. r. 31 e., thence south to the town of Citrus Center, Fla.

Then beginning at the N. E. corner of the N. W. $\frac{1}{4}$ of section 29, tp. 40, range 24 east, thence south to the S. W. corner of the same quarter section, thence east to the S. E. corner of the N. E. $\frac{1}{4}$ of section 27, same tp. and range, thence north along

section line to the N. W. corner of the S. W. $\frac{1}{4}$ of section 23, same tp. and range.

Then beginning in the Town of Cleveland, Florida, where First street intersects Cleveland avenue, thence south on said First street to the town limits, thence continuing in a southwesterly direction between the A. C. L. railroad right-of-way and Peace river to where this line strikes the right-of-way of said railroad, thence following the adjoining said right-of-way to the public road running west between T. C. Crossland's and Hall's pineries, then following this road to the N. E. Corner of B. A. Wacob's pinery.

The above road shall be in accordance with the report referred to for graded roads.

Bridges.

In addition to culverts of 20 feet span or less there will be required the following bridges, to-wit:

One steel bridge at Myrtle Creek on line between sections 19 and 30, tp. 40 s. r. 24 east.

One steel bridge at Myrtle slough on Bermont road on line between tps. 40 and 41 south.

Four steel or reinforced concrete bridges located on line of Punta Gorda and Ft. Ogden road at the four tide creeks crossing said road.

One steel bridge on Punta Gorda and Aeline road crossing proposed canal located in N. E. quarter, section 17, tp. 41, s. r. 23 east.

One steel or reinforced concrete bridge on line between 35 ranges 23 and 24 east at Lee Branch on Punta Gorda and Fort Ogden public road.

One wooden bridge at Shell Creek on line between sections 26 and 27, tp. 40, s. r. 24 east.

One wooden bridge at Rainey Slough, Fisheating Creek road, on line between tps. 40 and 41 south.

Four wooden bridges located on road leading from Citrus Center to North La Belle, Florida.

The final locations and particular details of the foregoing roads and bridges to be determined by the engineer in charge, such slight changes to be made by him as he may deem necessary to avoid points of difficulty which might increase costs.

The estimated amount which is necessary to be raised for the construction of said roads and bridges above described will be the sum of Two Hundred Thousand Dollars.

The cost of building and construction of said roads and bridges is to be paid for by the issuance and sale of Special Road and Bridge Bonds.

The inspectors, managers and other officers presiding at said election, and at their respective precincts shall be as follows:

Punta Gorda.

John Davis, F. T. Perkins, Charley McLane, Inspectors.
George McLane, Jr., Clerk.
J. H. Lipscomb, Deputy.

Cleveland.

J. C. Hobson, J. F. Dyers, Del Huckleby, Inspectors.
John Addison, Clerk.
Charley Godell, Deputy.

36

Bermont.

James Turner, G. W. Gatewood, J. W. Hogan, Inspectors.
E. E. Bailey, Clerk.
J. W. Mercer, Deputy.

Citrus Center.

G. M. Strayhorn, E. W. Attwood, Robert Isenheart, Inspectors.
Arthur Wolf, Clerk.
D. G. McCourier, Deputy.

North La Belle.

James Worth, T. T. Whidden, B. D. Stewart, Inspectors.
C. E. Weaver, Clerk.
George R. Cason, Deputy.

On page 338, minutes of meeting of Jan. 5th, 1914: There being
no further business the Board adjourned to meet January 10th,
1914.

V. W. SURRENCY,
Chairman.

Attest:

A. L. DURRANCE,
Clerk.

On page 339: Special Meeting; January 10th, 1914.

At a special meeting of the Board of County Commissioners for De Soto County, State of Florida, held in the office of the said Board at 7 o'clock P. M. January A. D. 1914, for the purpose of canvassing the election returns of the Special Election held in the Punta Gorda Roads and Bridges District, held on the 6th day of January A. D. 1914, and to determine and certify the result thereof, the following members were present: V. W. Surrency, Chairman, H. J. Downing and W. G. Welles; also A. L. Durrance, Clerk of said Board.

The meeting was called to order by V. W. Surrency, Chairman, and the returns of said Special Election were canvassed with the following results:

37	For creating Special Road and Bridge Districts:	Yes, 117 No, 16
	For Bonds	Yes, 68 No, 4
	For Tax	Yes, 2 No, 3

The returns from the various precincts in the proposed Punta Gorda Road and Bridge District being found to be in proper form, it is thereupon, motion duly made and seconded, resolved and declared at and in the said election it was voted that a district to be known as the Punta Gorda Special Road and Bridge District be established and bounded as follows: Beginning at mid-channel of Peace River dividing Townships 29 & 40 S. thence east on said line to Lake Okeechobee, thence south-erly on east boundary of De Soto County line to Lee County line, thence west on line dividing De Soto and Lee Counties to the Channel of Charlotte Harbor, thence north-erly along the channels of Charlotte Harbor and Peace River to point of beginning; and that bonds to the amount of \$200,000.00 be issued; said bonds to mature in 30 years, and to be issued in accordance with the call for said election.

On page 342, Meeting of Feb. 2nd, 1914:

Whereas, at an election called for the purpose it was determined that there be created a Special Road and Bridge District, which will be hereafter known as "The Punta Gorda Special Road and Bridge District," and that the said Special District bond for the purpose of constructing the roads and bridges in the petition named, therefore,

Be it resolved by the Board of County Commissioners that there be issued and sold \$200,000.00 worth of Punta Gorda Special Road and Bridge District six per cent coupon bonds; the said bonds to mature in thirty years, said bonds to be issued in the denomination of \$500.00; said bonds to be coupon interest bearing; the
38 bonds and the interest to be payable at Arcadia, and the interest to be payable semi-annually.

Be it further resolved that the Clerk of the Circuit Court give notice for thirty days that the said Board will receive bids for said bonds at his office in Arcadia on and before March 8th, 1914; that all bidders shall accompany their bids with a certified check for 2% of the amount of his bid; that the bidder shall state the time when he will comply with his bid by paying money; that the checks of the unsuccessful bidders will be returned to them, and the check of the successful bidders will be forfeited in case the said bidder shall fail to comply with his said bid.

On page 350, March meeting, 1914:

A motion was duly made and carried that the County Attorney is hereby instructed to take steps to comply with the law in validating the bond election of the Punta Gorda Special Road and Bridge District.

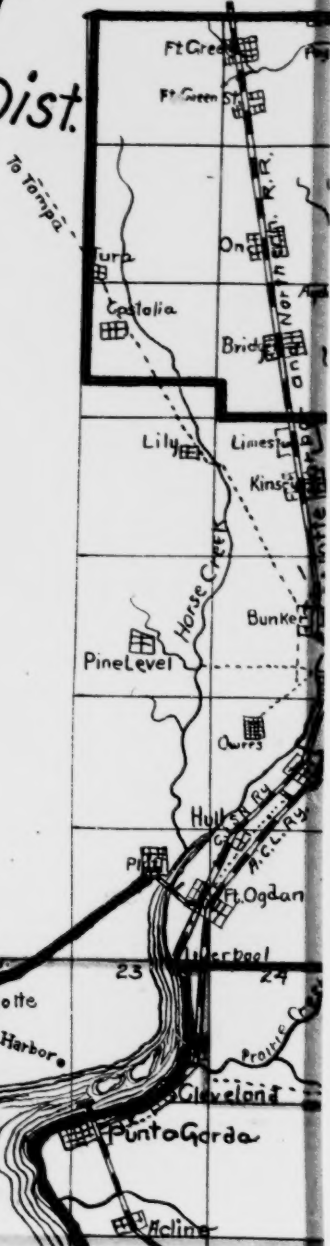
On page 352: It was moved and carried that the time for receiving bids for the Special Punta Gorda Drainage District Bonds, and

—Punta Gorda Dist. **01**
 —Charlotte Harbor Dist.

—McCall Dist
 —C.H. & N. Ry.
 —Wauchula Dist.

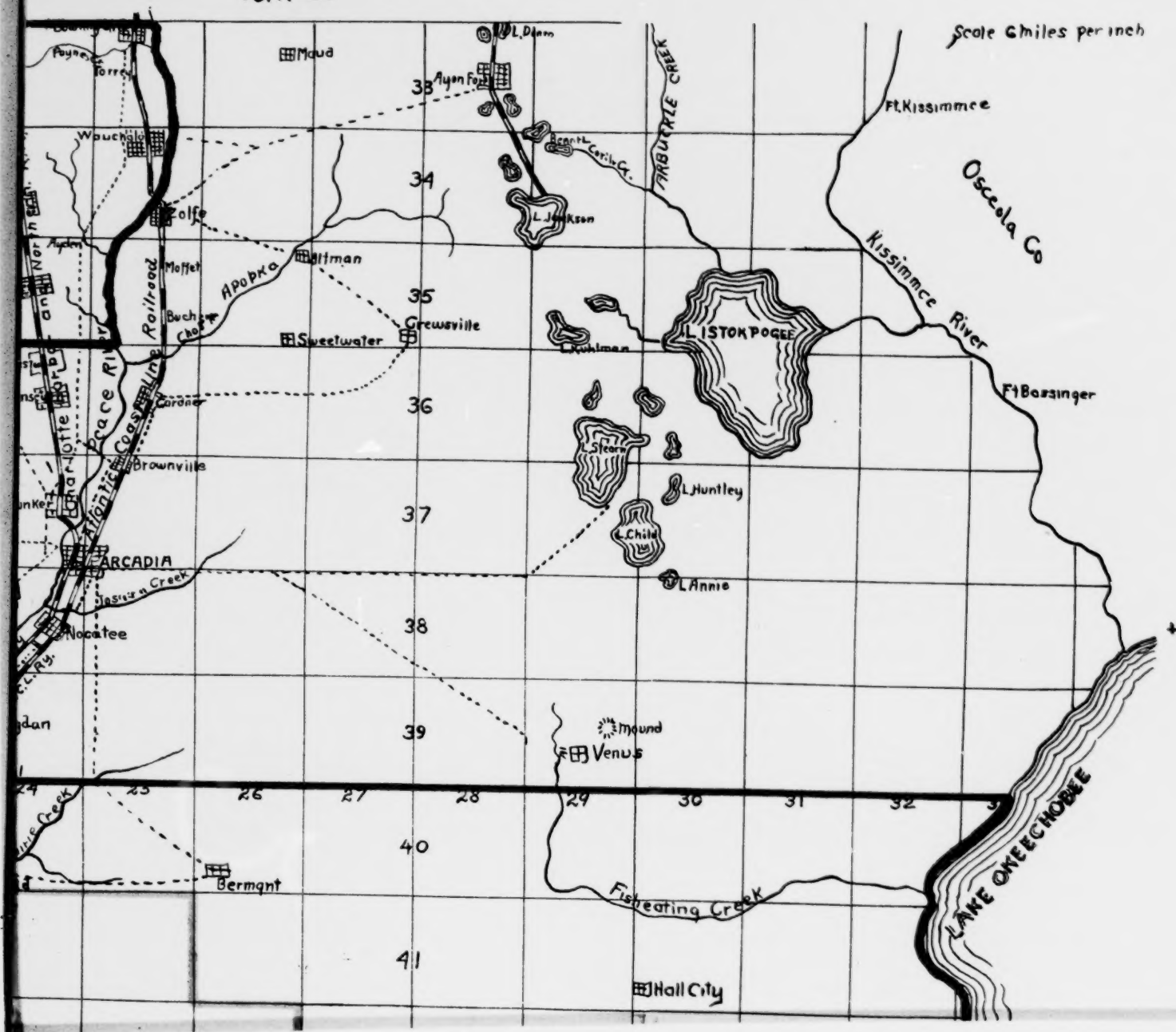
No 599
 C.H. & N. Ry. Co } \$40
 v
 Melluschl.

Manatee Co



Polk Co

Scale 6 miles per inch





the Punta Gorda Special Road and Bridge District Bonds be and the same is hereby extended to April 8th, 1914, noon.

On Page 357: April Meeting, 1914:

D. G. McCormick, A. B. Tucker and C. M. Carrier are hereby appointed and shall constitute the Board of Trustees of the proceeds resulting from the sale of bonds of Punta Gorda Special Road and Bridge District.

The following resolution was unanimously passed by the Board, V. W. Surrency voting yes, John Hagan voting yes, H. J. Downing voting yes, and W. G. Welles voting yes, Joseph Crews absent.

It appearing to the Board of County Commissioners that all things have been complied with touching the creation of the Punta
39 Gorda Special Road and Bridge District, and it is now necessary for the said Board to provide for a Sinking Fund to take care of the said bonds.

It further appearing to the said Board that the said bond issue calls for \$200,000.00, and the same to retire in 30 years.

Be it resolved by the said board of county commissioners that a sinking fund of \$6,666.67, or one thirtieth of the said bond issue, shall be collected each year from the taxable property of the said Special Road and Bridge District.

The time having arrived for the opening of bids for the bonds of the Punta Gorda Special Road and Bridge District, the following bids were opened:

Bid of Hoehler, Cummings & Pruden was at par with accrued interest plus a premium of \$575.00.

The bid of Spitzer, Barich & Company was at par with accrued interest plus a premium of \$1,575.00.

The Board then went into executive session and after a thorough discussion, the bid of Hoehler, Cummings & Pruden was upon unanimous vote duly accepted.

STATE OF FLORIDA,

County of De Soto, ss:

I, A. L. Durrance, Clerk of the Circuit Court and of the Board of County Commissioners of the County and State aforesaid, do hereby certify that the above and forgoing is a full, true and correct transcript of the proceedings of the said Board of Commissioners leading up to the election and the issuance of bonds in the Punta Gorda Special Road and Bridge District, De Soto County, Fla.

In witness whereof, I have hereunto affixed my official hand and seal of the said Board of Commissioners this 21st day of January, A. D. 1918.

A. L. DURRANCE,

Clerk,

By B. VANCE,

D. C.

[SEAL.]

(Here follows diagram marked page 40.)

41 Charlotte Harbor Special Road and Bridge District.

Petition

To the Honorable Board of County Commissioners of De Soto County, Fla.:

Your petitioners respectfully represent unto your Honorable Board that they are residents and freeholders of the territory in said De Soto County, Florida, hereinafter described, and that they constitute and represent twenty-five per cent, and upwards of the duly registered voters of said territory who are freeholders, that they desire to have said territory hereinafter described constituted into a special road and bridge district, and to have constructed within said Road and Bridge District permanent roads and bridges as provided for and in accordance with the provisions of Chapter 6208 of the Acts of the Legislature of the State of Florida, passed and approved on the 3rd day of June, 1911, as amended 1915, and the general statutes of the State of Florida applicable thereto, and that said territory so described to be constituted into said special Road and Bridge District is embraced in Road Districts No. 2 and No. 3, and in County Commissioners' District No. 2 and No. 3, in De Soto County, Florida, which said territory to be embraced in said Special Road and Bridge District is described as follows:

All of Township 40 S. Ranges 21-22-23, E.

All of Township 41 S. Ranges 19-20-21-22-23-24-25, E.

All of Township 42 S. Ranges 20-21-22-23-24-25-26, E.

The following is a general description of the roads and bridges proposed to be constructed within said District.

Hard Surfaced Roads.

Beginning at a point on Front Avenue in Charlotte Harbor, Florida, where said Avenue intersects Peace River at Sand Point, and running in a westerly direction along said Avenue to Bay

42 Street, thence northerly along Bay Street to Sibley Street, thence along Sibley street to north end of Sibley Street, thence west to present Charlotte Harbor and Murdock public road, thence along said Charlotte Harbor and Murdock public road to S. E. corner Sec. 8 in Tp. 40 S. R. 22 E. thence north $\frac{1}{2}$ mile along Sec. line dividing section 8 and 9, thence west along half section line to Murdock station, thence North on street in town of Murdock, Fla., to section line dividing sections 6 & 7, tp. 40 S. R. 22 E., thence west along line dividing sections 6 & 7, above township and range and section 1 and 12 and 2 and 11 Township 40 S. R. 21 E. to S. W. corner Sec. 2, said Township, and Range, thence northwest to N. W. corner Sec. 3, same Township and Range intersecting Manatee county line.

Beginning at the S. E. corner of the N. E. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Sec. 28, Township 41 S. R. 23 E. thence following division No. 10 of the Punta Gorda Special Road and Bridge District, as grubbed, cleared and graded, to Range line dividing Ranges 25 and 26 E. then south on said Range line to where said Range line intersects Lee County line.

Beginning at the Town of Cleveland, Florida, where First street intersects Cleveland Avenue, thence S. W. on said First Street to town limits, thence continuing in a southwesterly direction between the A. C. L. R. R. right of way and Peace River to where this line strikes the right of way of said Railroad, thence following and adjoining said right of way to the intersection of the public road in Salona, thence along said road in a westerly direction to the intersection with the Punta Gorda and Ft. Ogden public road, at N. E. corner of B. A. Wachob's pinery.

Graded Roads.

Beginning at foot of bridge on Sand Point, Charlotte Harbor, Fla., and running in a northeasterly direction approximately 1 mile to where it will intersect the Charlotte Harbor and Harbor View
43 Public Road.

Beginning at the northwest corner of section 30, Township 41 S. Range 21 E. and running southeasterly to the town of McCall, Florida, on the C. H. & N. Railway.

Charlotte Harbor Bridge.

Beginning at foot of Front avenue on Sand Point in Charlotte Harbor, Florida, and running in a southeasterly direction to the north end of Nesbit street in Punta Gorda, Florida, said bridge to be constructed on re-inforced concrete piles with reinforced concrete caps. All timbers to be creosoted or carbolened. Width of bridge to be 14 feet in clear and such draw as Government engineers may require.

The final location and particular detail of the foregoing roads and bridges to be determined by the engineer in charge, with Commissioners' approval, such changes to be made by him as he may deem necessary to avoid points of difficulty which might increase cost.

The estimated amount of which is necessary to be raised for the construction of said roads, and bridges above described will be the sum of One Hundred and Thirty Thousand Dollars (\$130,000.00).

Your petitioners also specify that the cost of the building and construction of said roads and bridges is to be paid for by the levy and collection of a special road and bridge tax to be levied in the manner provided for in the said Act of the State Legislature hereinbefore referred to, and all of the provisions of the general statutes applicable thereto.

Your petitioners therefore pray your Honorable Board that, at the first meeting of your Honorable Body after the receipt of this petition, to order an election to be held in said territory above described to determine whether or not said territory shall be constituted into a special Road and Bridge District as provided for in Chapter 6208 of the Acts of the Legislature of 1911, above referred to, and if the result of said election shall be in favor of the proposition to create said special road and bridge district, then and in that event your Honorable Board is hereby requested to designate the same by name or number and to levy said special road and
44 bridge tax as provided for in this petition for the construction of said

roads and bridges, to the end that said Special Road and Bridge District may be created and the roads and bridges above specified built and constructed as required by law.

R. C. BLOUNT.	EDGAR HALL.	A. B. TUCKER.
W. M. DREGGORS.	J. H. HANCOCK.	GEO. MYRAT.
D. N. McQUEEN.	F. GOLDEN.	C. M. CARRIER.
L. H. GRIGGS.	J. N. SIKES.	C. G. BROWN.
E. WEEKS.	J. E. BOWDOIN.	P. W. McADOW.
EDWIN STAHL.	T. C. CROSSLAND.	J. W. RIGGS.
O. A. BELL.	F. W. GUTHRIE.	G. K. LEWIS.
G. W. QUEDNAU.	CLAY CHADWICK.	A. F. QUIDNEAU.
B. B. CONNER.	T. H. SISTRUNK.	H. R. DREGGORS.
F. B. PITT.	GEO. HEMPSTEAD.	E. WOTITZKY.
GEO. KNIGHT.	E. B. GALLAGHER.	J. C. LEWIS.
E. A. LOW.	E. W. SMITH.	L. OLIVER.
D. J. HOHK.	B. A. WACHOB.	F. L. LANBACH.
R. K. SEWARD.	S. E. GIDDENS.	J. C. MEYRICK.
SAMUEL NAIL.	J. J. McCANN.	A. MORMON.
L. A. HAWKINS.	GROVE COCHRAN.	P. W. WEEKS.
C. E. DAVIS.	C. A. PAGE.	F. M. COOPER.
GEO. A. McLANE.	A. F. DEWEY.	T. S. GRIGGS.
O. A. MORGAN.	A. S. BENHAM.	T. A. EARNEST.
R. M. KING.	J. O. LANCASTER.	L. H. GILL.
W. L. KOON.	U. S. WHITTAKER.	J. H. ROSCH.
T. S. DELK.	FRED BELL.	F. F. GITHENS.
C. A. CARVER.	J. W. COLEMAN.	W. N. BROWN.
E. W. ROUNDTREE.	A. M. HATCH.	JOSHUA MIZELL.
E. D. WILLIS.	WM. BASSETT.	GEO. BROWN.
H. SOLBERG.	A. HOLCOMB.	L. T. HOMAN.
A. P. HATCH.	F. M. GARRISON.	CLAYTON PORTER.
J. W. BENNETT.	J. J. MILLS.	O. D. THOMPSON.
J. H. BIERS.	F. B. WEEKS.	J. W. NEWMAN.
S. L. ROBERTS.	JOHN SANDS.	J. L. KNIGHT.
L. E. MISSELL.	W. L. WHIDDEN.	H. O. SILCOX.
J. O. ROSE.	C. FITZGERALD.	P. M. GROVER.
C. W. HEWITT.	M. S. ROBERTS.	N. C. HEWITT.
C. L. ROBERTS.	H. W. SMITH.	J. L. MARTIN.
H. QUIDNEAU.	J. H. JOHNSON.	J. L. HURTON.
N. C. LARSEN.	F. F. RHODE.	W. C. VICKERS.
GEO. WINE.	R. C. ROWLAND.	S. E. JOHNSON.
M. A. WILLIS.	FRED QUIDNEAU.	H. C. GOLDSTEIN.
WILL QUIDNEAU.	JOHN VAUDERLET.	S. I. HUFFMAN.
S. C. GATES.	J. R. McCLELLAND.	T. A. EVANS.
E. K. WHIDDEN.	S. A. GILES.	H. L. DECKER.
A. J. ROBERTS.	H. J. SPENCE.	H. R. SAMUELS.
C. S. HALL.	LONNIE WILLIAMS.	F. R. BLOUNT.
SIMON THOMAS.	O. CORANI.	A. P. JENKINS.
L. L. BARNHILL.	HENRY MAYBEG.	THOMAS ROBERTS.
ISAAC THOMPSON.	J. R. MAUCH.	JAS. ANDREWS.
C. L. STEPHENS.	E. WARN.	F. ROBBINS.
A. BAILEY.	T. H. STEPHENS.	P. W. MILLER.
I. P. JENNINGS.	S. A. GILES.	

45 On page 26, Commissioners' Meeting No. 5, February meeting, 1916:

On motion of Mr. Hagan seconded by Wm. Whitten and adopted, the petition of R. C. Blount and 146 others asking that all of Township 40 S, Ranges 21-22-23 East, all of Township 41 S. Ranges 19-20-21-22-23-24-24 East and all of Township 42 S. Ranges 20-21-22-23-24-25-26 East be embraced in a Special Road and Bridge District was ordered filed and the Chair authorized to appoint a committee to ascertain if the said petition contains the required number of signatures. The Chair appointed Hon. W. M. Whitten and Hon. John Hagan to serve on said committee.

On page 29: The following report was presented:

Report of Committee on Petition to Form a Special Road and Bridge District.

To the Honorable Board of County Commissioners of De Soto County:

GENTLEMEN:

We, your committee to whom was referred a petition filed and considered at a special meeting of the Board on the 7th day of February, 1916, asking that the following described territory to-wit: All of Townships 40 South in ranges 21, 22 and 23 East, and all of Townships 41 South in Ranges 19, 20, 21, 22, 23, 24 and 25 East and all of Townships 42 South in Ranges 20, 21, 22, 23, 24, 25 and 26 East, be constituted into a Special Road and Bridge District, and that certain roads and a bridge across Pease river be constructed therein, respectfully report that they have carefully investigated the matter and find and determine that said petition has been duly signed by
46 the requisite number, more than 25 per cent, of the registered voters, who are freeholders residing within said territory and that said petition is in all respects strictly in accordance with the requirements of law.

Respectfully submitted,

JOHN HAGAN,
WM. M. WHITTEN,
Committee.

On motion duly made, seconded and carried the above report was received and its finding and determination concurred in, whereupon the following resolution was presented and unanimously adopted.

Whereas, at a duly called special meeting of this Board held on the 7th day of February, 1916, a petition was received by this Board and filed, asking that the following described territory, to-wit: All of Township 40 South, in Ranges 21, 22, and 23, East, and all of Township 41 South, in Ranges 19, 20, 21, 22, 23, 24, and 25 East, and all of Township 42 South, in Ranges 20, 21, 22, 23, 24, 25, and 26 East be constituted into a Special Road and Bridge District; and that certain roads and a bridge across Peace River be constituted herein,

And whereas said petition was referred to a committee consisting of John Hagan and Wm. M. Whitten.

And whereas, at this first regular meeting of the Board and after receipt of said petition, said committee reported that said petition has been duly signed by the requisite number of registered voters who are free holders residing within the said territory, and that said petition is in all respects strictly in accordance with the requirements of law.

Now Therefore, Be it resolved, that the report of said committee be concurred in and that this Board finds that said petition has been
 47 duly signed by the requisite number of registered voters who
 are free holders residing within said territory, and that said
 petition is in all respects strictly in accordance with the requirements of law; and.

Be it further resolved, that an election be and is hereby ordered to be held in the territory described in said petition, to-wit: All of township 40 South, in Ranges 21, 22, and 23 East, and all of Township 41 South in Ranges 19, 20, 21, 22, 23, 24 and 25 East, and all of Township 42 South in Ranges 20, 21, 22, 23, 24, 25 and 26 East, and which it is proposed to constitute into a Special Road and Bridge District, and the proposed roads and bridges constructed and paid for as specified in said petition; and that said election be held at the several voting precincts within the limits of the proposed district the 21st day of March, 1916, and the inspectors, managers and other officers presiding at said election shall be as follows:

Punta Gorda: Clayton Porter, J. G. Meyrick, J. J. McCann, Inspectors; B. A. Wachob, Sheriff; F. L. Laubach, Clerk.

Cleveland: Dell Huckaby, H. Solberg, J. C. Hobson, Inspectors; J. G. Stokes, Sheriff; William Bassett, Clerk.

Charlotte Harbor: J. L. Knight, I. D. Thompson, I. P. Jennings, Inspectors; Thomas Roberts, Sheriff; J. R. Marek, Clerk.

Murdock: C. L. Roberts, C. T. Body, A. S. Christie, Inspectors; M. S. Roberts, Sheriff; T. S. Knight, Clerk.

McCall: William Goff, W. E. Bryant, Otto Gottfried, Inspectors; D. Goff, Sheriff; R. C. Buchan, Clerk.

That the roads and bridges to be constructed under said petition are as follows, to-wit: (Description given in petition above), and the cost thereof is estimated at \$130,000.00.

That the cost of construction of said roads and bridges shall be paid
 48 by the levy and collection of a Special Road and Bridge Tax, in
 the manner provided for in Chapter 6208 of the Acts of the
 Legislature of the State of Florida, passed and approved on
 the 5th day of June, 1911, and as amended in 1915.

That the County Clerk is hereby ordered to prepare ballots and deliver the same to the inspectors of election for the several precincts within said proposed Special Road and Bridge District, and publish the following notice in the Punta Gorda Herald five times, to-wit: February 17 and 24, and March 2, 9, and 16.

Notice of Calling an Election to Create a Special Road and Bridge District in De Soto County, Florida.

Notice is hereby given that the County Commissioners of De Soto County, Florida, have called an election to be held at the usual polling places, hereinafter named, in the proposed territory hereinafter described, to be held on the 21st day of March, 1916, to determine whether the said proposed territory shall or shall not be constituted into a Special Road and Bridge District, and the cost of the construction of roads and bridges therein, estimated to amount to the sum of \$130,000.00, be paid by the levy and collection of a special road and bridge tax as provided in Chapter 6208 of the Acts of the Legislature of 1911, and amendments thereto.

The territory to be embraced within said proposed special road and bridge district is described as follows: All of Township 40 South in Ranges 21, 22, and 23 East, and all of Township 41 South in Ranges 19, 20, 21, 22, 23, 24, and 25 East, and all of Township 42 South in Ranges 20, 21, 22, 23, 24, 25 and 26 East.

(A general description of the roads and bridges proposed to be constructed within said district will be found on page 41 & 42 of this record.)

Page 41: The following is a general description of the roads and bridges proposed to be constructed within said district:

Hard Surfaced Roads.

49 Beginning at a point on Front Avenue in Charlotte Harbor, Florida, where said Avenue intersects Peace River at Sand Point, and running in a westerly direction along said Avenue to Bay street, thence northerly along Bay Street to Sibley street, thence along Sibley street to north end of said Sibley street, thence west to present Charlotte Harbor and Murdock public road, thence along said Charlotte Harbor and Murdock public road to S. E. corner Sec. 8 in Tp. 40 S. R. 22 E. thence north $\frac{1}{2}$ mile along Sec. line dividing Sections 8 and 9, thence west along half section line to Murdock station, thence north along street in town of Murdock, Fla., to section line dividing sections 6 and 7, Tp. 40 S. Range 22 E. thence west along line dividing sections 6 and 7, above township and range and sections 1 and 12 and 2 and 11 Township 40 S., Range 21 E. to S. W. corner Sec. 2, said township and range, thence northwest to N. W. corner Sec. 3, same Township and range, intersecting Manatee County line.

Beginning at S. E. corner of the N. E. $\frac{1}{4}$ of the N. E. $\frac{1}{4}$ of Sec. 28, Township 41 S. Range 23 E. thence following division No. 10 of the Punta Gorda Special Road and Bridge District, as Grubbed, Cleared and graded, to Range line dividing Ranges 25 and 26 East then South on said Range line to where said Range line intersects Lee County line.

Beginning at the Town of Cleveland, Florida, where First Street intersects Cleveland Avenue, thence S. W. on said First Street to Town limits, thence continuing in a southwesterly direction between the

A. C. L. R. R. right-of-way and Peace River, to where this line strikes the right-of way of said railroad, thence following and adjoining said right-of-way to the intersection of the public road in Solona, thence along said road in a westerly direction to the intersection with the Punta Gorda and Ft. Ogden public road, at N. E. corner of B. A. Wachob's pinery.

50

Graded Roads.

Beginning at foot of bridge on Sand Point, Charlotte Harbor, Fla., and running in a northeasterly direction approximately 1 mile to where it will intersect the Charlotte Harbor and Harbor View public roads.

Beginning at the Northwest corner of Sec. 30, Township 41 S, Range 21 E. and running southeasterly to the town of McCall, Florida, on the C. H. & N. Railway.

Charlotte Harbor Bridge.

Beginning at foot of Front Avenue on Sand Point in Charlotte Harbor, Florida, and running in a southeasterly direction to the North end of Nesbit street in Punta Gorda, Florida, said bridge to be constructed on re-inforced concrete piles with re-inforced concrete caps. All timbers to be creosoted or carbolened. Width of bridge to be 14 feet in clear and such draw as Government Engineers may require.

The final location and particular detail of the foregoing roads and bridges to be determined by the engineer in charge, with commissioners approval, such changes to be made by him as he may deem necessary to avoid points of difficulty which might increase cost.

The estimated amount of which is necessary to be raised for the construction of said roads and bridges above described will be the sum of One Hundred and Thirty Thousand Dollars (\$130,000.00.)

On page 62: The Honorable Board of County Commissioners met in call session in their office at Arcadia, Fla., Mar. 29th, 1916,

Members present, Hon. L. W. Whitehurst, Chairman W. G. Welles, Wm. Whitten and John Hagan.

The purpose of said meeting was to canvass the returns of the Charlotte Harbor Special Road and Bridge District election, and any other business that might properly come before the Board.

Said meeting being called to order for business the Clerk presented for inspection and filing proof of publication of notice of call of election to create a Special Road and Bridge District in Township 40, Ranges 21 to 23, inclusive, Township 41, Ranges 19 to 25, inclusive, and Township 42, Ranges 20 to 26 inclusive, which said notice and proof thereof is as follows, to wit:

Notice of Publication.

Before me, a Notary Public in and for the State of Florida, personally appeared A. C. Jordan, to me well known as manager of the Punta Gorda Herald, a weekly newspaper published in the town of

Punta Gorda, De Soto County, Florida, who, being duly sworn, deposes and says that the "Notice of the calling of an Election, &c., copy of which is hereto attached, was published in the said Punta Gorda Herald in the regular edition and not in a supplement, every week for a period of five consecutive weeks, beginning on the 17th day of February, A. D. 1916, and ending on the 16th day of March, A. D., 1916.

A. C. JORDAN.

Sworn to and subscribed before me this the 24th day of Meh., A. D. 1916.

WALLACE CHADMAN,
Notary Public.

[SEAL.]

My commission expires Oct. 10-1916.

Notice of Calling an Election to Create a Special Road and Bridge District in De Soto County, Florida.

Notice is hereby given that the County Commissioners of De Soto County, Fla., have called an election to be held at the usual polling places, hereinafter described, to be held on the 21st day of March, 1916, to determine whether the said proposed territory shall or shall not be constituted into a Special Road and Bridge District and the cost of construction of roads and bridges therein estimated to

52 amount to the sum of \$130,000.00, be paid by the levy and collection of a special road and bridge tax as provided in Chapter 6208 of the Acts of the Legislature of 1911 and amendments thereto.

The Inspectors, Managers and other officers presiding at said election shall be as follows:

Punta Gorda: Clayton Porter, J. G. Meyrick, J. J. McCann, Inspectors; B. A. Wachob, sheriff; F. L. Lauback, Clerk.

Cleveland: Dell Huckaby, H. Solberg, J. C. Hobson, Inspectors; J. G. Stokes, sheriff; William Bassett, Clerk.

Charlotte Harbor: J. L. Knight, I. D. Thompson, I. P. Jennings, Inspectors; Thomas Roberts, Sheriff; J. R. Mauck, Clerk.

Murdock: C. L. Roberts, C. T. Body, A. S. Christie, Inspectors; M. S. Roberts, Sheriff; T. S. Knight, Clerk.

McCall: William Goff, W. E. Bryant, Otto Gottfried, Inspectors; D. Goff, Sheriff; R. S. Buchan, Clerk.

The territory to be embraced within said proposed special road and bridge district is described as follows: All of Twp. 40 S. in Ranges 21, 22, and 23, East, and all of Township 41 South, in Ranges 19, 20, 21, 22, 23, 24, and 25 East, and all of Twp. 42 South in Ranges 20, 21, 22, 23, 24, 25 and 26 East.

The following is a general description of the roads and bridges proposed to be constructed within said district.

Hard Surfaced Roads.

Beginning at a point on Front Avenue in Charlotte Harbor, Florida, where said Avenue intersects Peace river at Sand Point, and running in a westerly direction along said Avenue to Bay Street, thence north-
erly along Bay street to Sibley Street, thence along Sibley Street to
north end of said Sibley Street, thence west to present Charlotte Har-
bor and Murdock public road, thence along said Charlotte Harbor
and Murdock public road to S. E. corner Sec. 8 in Tp. 40 S. R. 22 E.,

thence North $\frac{1}{2}$ mile along Sec. line dividing sections 8 and 9,
53 thence west along half section line to Murdock Station, thence
north on street in town of Murdock, Fla., to section line divid-
ing section- 6 and 7, Tp. 40 S., Range 22 E., thence west along line
dividing sections 6 and 7 above township and range and sections 1
and 12 and 2 and 11, Township 40 S., Range 21 E. to S. W. corner
Sec. 2, said township and range, thence Northwest to N. W. corner of
Sec. 3, same township and range, intersecting Manatee County line.

Beginning at the S. E. corner of the N. E. $\frac{1}{4}$ of N. E. $\frac{1}{4}$ of Sec.
28, Township 41 S., Range 23 E., thence following division No. 10 of
the Punta Gorda Special Road and Bridge District, as grubbed,
cleared and graded, to Range line dividing Ranges 25 and 26 E.,
then south on said Range line to where said Range line intersects Lee
County line.

Beginning at the Town of Cleveland, Florida, where First street
intersects Cleveland Avenue, thence S. W. on said First Street to
Town Limits, thence continuing in a southwesterly direction between
the A. C. L. R. R. right-of-way and Peace River to where this line
strikes the right-of-way of said Railroad, thence following and ad-
joining said right-of-way to the intersection of the public road in So-
lona, thence along said road in a westerly direction to the intersection
with the Punta Gorda and Ft. Ogden public road, at N. E. corner of
B. A. Wachob's pinery.

Graded Roads.

Beginning at foot of bridges on Sand Point, Charlotte Harbor, Fla.,
and running in a northeasterly direction approximately 1 mile to
where it will intersect the Charlotte Harbor and Harbor View public
road.

Beginning at the Northwest corner of Sec. 30, Township 41 S.,
Range 21 E., and run southeasterly to the town of McCall, Florida,
on the C. H. & N. Railway.

54

Charlotte Harbor Bridge.

Beginning at foot of Front Avenue on Sand Point in Charlotte
Harbor, Florida, and running in a south-easterly direction to the
North end of Nesbit street in Punta Gorda, Florida, said bridge to
be constructed on concrete piles with re-inforced concrete caps. All
timbers to be creosoted or carbolened. Width of bridge to be 14
feet in clear and such draw as government engineers may require.

The final location and particular detail of the foregoing roads and

bridges to be determined by the engineer in charge, with Commissioners' approval, such changes to be made by him as he may deem necessary to avoid points of difficulty which might increase cost.

By order of the Board of County Commissioners of De Soto County, Florida.

A. L. DURRANCE,
Clerk of the Board.

Official Ballot.

To determine whether the following described territory shall or shall not be constituted into a Special Road and Bridge District, and the cost of the construction of Roads and Bridges therein, estimated to amount to \$130,000.00, be paid by the levy and collection of a Special Road and Bridge tax as provided in Chapter 6208 of the Acts of the Legislature of 1911 and amendments thereto.

The territory to be embraced within said proposed special road and bridge district is described as follows: All of townships 40 South in Ranges 21, 22, and 23 East, and all of Townships 41 South in Ranges 19, 20, 21, 22, 23, 24, and 25 East, and all of Townships 42 South in Ranges 20, 21, 22, 23, 24, 25, and 26 East.

March 21st, 1916.

55 Place a cross mark (x) before the question of your choice.

For Special Road and Bridge District.

Against Special Road and Bridge District.

Whereupon it is ordered that the notice of said election was duly ordered and published as required by law.

Thereupon the Board proceeded to canvass the returns of the said election held within said territory on the 21st of March, 1916, from which canvass the following results were found and recorded:

Votes cast in district No. 19, Cleveland:

For Special Road and Bridge District.....	4	..
Against Special Road and Bridge District.....		2

Votes cast in District No. 5, Charlotte Harbor:

For Special Road and Bridge District.....	36	..
Against Special Road and Bridge District.....		5

Votes cast in Murdock District No. 26:

For Special Road and Bridgt District.....	5	..
Against Special Road and Bridge District.....		2

Votes cast in District No. 6, McCall:

For Special Road and Bridge District.....	0	..
Against Special Road and Bridge District.....		12

Votes cast in District No. 7, Punta Gorda:

For Special Road and Bridge District.....	81	..
Against Special Road and Bridge District.....	..	11
Total votes cast in said election for Special Road and Bridge District	126	
Total votes cast in said election Against Special Road and Bridge District		32
Majority vote cast in favor of establishing said Special Road and Bridge District	94	94

Thereupon it is declared and ordered that a majority of the votes cast in said election being in favor of the creation of a Special Road and Bridge District within the said territory, the cost of construction of roads and bridges therein, estimated to amount to \$130,000.00, to be paid for by the levy and collection of a Special Road and Bridge Tax, that the Special Road and Bridge District be, and the same is hereby created and established, that the same be designated as

Charlotte Harbor Special Road and Bridge District, the boundaries thereof to be as follows, to-wit:

Beginning at the Northeast corner of Township 40 South, Range 23 East, thence west along Township line to the Northwest corner of Township 40 South, Range 21 East, thence South to the Southwest corner of Township 40 South, Range 21 East, thence West along the Township line to the Gulf of Mexico, thence Southeasterly along the Gulf of Mexico to the South line of Township 42 South, Range 20 East, thence East along the South line of Township 42 South, to the Southeast corner of Township 42 South, Range 26 East, thence North to the Northeast corner of Township 42 South, Range 26, East, thence West to the Northwest corner of Township 42 South, Range 26 East, thence North to the Northeast corner of Township 41 South, Range 25 East, thence West to the Southwest corner of Township 40 South, Range 23 East, thence North to place of beginning.

STATE OF FLORIDA,

County of De Soto, ss:

I, A. L. Durrance, Clerk of the Circuit Court and of the Board of County Commissioners of the County and State aforesaid, do hereby certify that the above and foregoing is a true, full and complete transcript of the record of the proceedings of the said Board of County Commissioners leading up to the election and the incorporation of the Charlotte Harbor Special Road and Bridge District in said County and State.

In witness whereof I have hereunto affixed my official hand and the seal of the said Board of County Commissioners on this the 23rd day of January, A. D. 1918.

A. L. DURRANCE,

Clerk.

[SEAL.]

By B. VANCE,

D. C.

United States of America,

State of Florida,

County of De Soto.

No. —.

Charlotte Harbor Special Road and Bridge District Warrant.

Know all men by these presents, That Charlotte Harbor Special Road and Bridge District in De Soto County, Florida, for value received, is indebted to ———— Dollars, and the County Treasurer of De Soto County is hereby authorized, ordered and directed to pay to ————, assigns, or bearer, the said sum of — Dollars on or before the first day of July, 191—, from the funds in his hands collected from the Special Road and Bridge Tax of Charlotte Harbor Special Road and Bridge District, together with interest thereon, from the time this warrant is certified and registered, at the rate of six per cent per annum, payable annually on or before July 1st of each year, until paid, on presentation and surrender of this warrant and the interest coupons hereto attached, as they severally become due, at his office in Arcadia, Florida, or at the Seaboard National Bank, in the City of New York, State of New York, at the option of the holder, said coupons to be signed by the facsimile of the Clerk and Chairman of the Board of County Commissioners of said County.

The County Commissioners of said County reserve the option to pay this warrant at any time there are sufficient funds to the credit of the Special Road and Bridge Fund against which it has been drawn. In the exercise of such option the warrants composing said series shall be paid in the order of their registration; and whenever the County Treasurer shall notify, in writing, the owner of this warrant that he has the funds with which to pay the same, and that he will make such payment upon presentation of said warrants, said warrant shall cease to draw interest after the date of such notification. Notice by registered mail to original payee and to Seaboard National Bank, New York City, shall constitute and be sufficient notification hereunder.

It is hereby certified, recited and declared that the construction of said bridge was authorized at an election duly and regularly held in said Special Road and Bridge District on the 21st day of March, 1916; that this warrant, together with the other warrants of said series does not exceed the total amount authorized at said election; that the claim of said contractors evidenced by this warrant was duly presented to the Board of County Commissioners, and by said Board of County Commissioners duly audited and allowed; and that said County does not have any set-off or counter-claim against said warrant; that all acts, conditions and things required to be done precedent to and in the issuing of said warrant have been properly done, have happened and have been performed, in regular and due form, as required by the Constitution and Laws of the State of Florida, and that

said contract and this warrant and all others of its series are governed by Chapter 6208 and amendments thereto, Legislative acts, State of Florida.

In testimony whereof, The Board of County Commissioners of De Soto County, Florida, by order made in open session, has caused this warrant to be signed by the Clerk of said Board who has affixed hereto the seal of said County Commissioners, and to be countersigned and attested by the Chairman of said Board of County Commissioners, the — day of —, 191—.

Clerk of the Board of County Commissioners of De Soto County, Florida.

Countersigned and attested:

Chairman of the Board of County Commissioners.

Assignment.

For value received, we hereby transfer, assign, sell and deliver, without recourse, to bearer, all right, title, and interest we have in and to this warrant, and also the proportionate part of the claim and the debt due us under contract for —, which is represented by the amount called for by this warrant, and said bearer is hereby
 59 subrogated to all claims, liens, right or title which we have in or to the same, and we hereby authorize the bearer hereof to collect the same, and give full receipt and acquit-ance thereof in our name.

Witness the signature of the undersigned:

Number —. State of Florida, County of De Soto, § —, Charlotte Harbor Special Road and Bridge District Warrant.

Interest payable annually, at the office of the County Treasurer at Arcadia, Florida, or at the Seaboard National Bank, New York, N. Y., at the option of the holder.

STATE OF FLORIDA.

De Soto County, ss:

I, County Treasurer of De Soto County, Florida, do hereby certify that at the request of the party owning and presenting this warrant, I did register said warrant in a book kept by me for that purpose, this — day of —, 191—.

County Treasurer.

On the 29th day of March, 1918, the defendants filed the following demurrer to the bill of complaint:

60 In the Circuit Court, Tenth Judicial Circuit of Florida, in
and for De Soto County. In Chancery.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY,
a Corporation,

vs.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN
and J. W. Bullock, as and Constituting the Board of County Com-
missioners of De Soto County, Florida.

The defendants, as Board of County Commissioners as aforesaid,
not confessing or acknowledging all or any of the matters and things
in the bill of complaint filed in this cause to be true, in such manner
and form as the same are therein and thereby set forth and alleged,
demurs to said bill and for cause of demurrer shows:

First. That the complainant has not stated in its bill of complaint
facts or matters which authorize a court of equity to grant an injunc-
tion or other equitable relief.

Second. It appears by the allegations of the bill of complaint that
Charlotte Harbor Special Road and Bridge District was legally created
and established and is a legal Road and Bridge District in which the
defendant, as a Board of County Commissioners are authorized to
levy the special road and bridge tax which the complainants seek to
enjoin.

Third. It appears by the allegations of the bill of complaint, with
its exhibits, that the complainant is estopped by its laches, to com-
plain against the levy and collection of the Special Tax in said Char-
lotte Harbor Road and Bridge District, for that it has allowed the
said defendants to make and enter into contracts in the sum
61 of more than \$60,000.00, for the construction of roads and
bridges in said district and to issue warrants payable out of
the taxes levied upon the taxable property in said district.

Fourth. It appears upon the face of said bill that the complainant
has waived, and estopped itself from insisting upon any defect in or
objections to the creation of said district and the assessment and levy
of special taxes therein by, (a) standing by and permitting the de-
fendant to enter into contracts for and to deliver warrants in pay-
ment of work in constructing roads and bridges in said district (b)
By not complaining earlier and instead thereof making payment of
the special tax assessed and levied upon its property within said
district.

I as attorney and solicitor for the defendants above named hereby
certify that in my opinion the foregoing demurrer is well founded in
law.

JOHN W. BURTON,
Attorney and Solicitor for Defendants.

STATE OF FLORIDA,
County of De Soto:

Before me personally came W. G. Welles, one of the defendant above named, and Chairman of the said Board of County Commissioners, and being first sworn says that the foregoing demurrer interposed by the Board of County Commissioners of said County is not interposed for the purpose of delay.

W. G. WELLES.

Sworn to and subscribed before me this the 29th day of March, 1918.

B. VANCE,
Notary Public, State of Florida.

My commission expires April 13, 1919.

62 On the 18th day of June, A. D. 1918, the Court entered its decree sustaining said demurrer of the defendants to the bill of complaint of complainant, and dismissing the bill of complaint, which said decree was on the 18th day of June, A. D. 1918, duly filed and recorded in chancery order book 3, page 263 records of the said court, in the words and figures following:

In the Circuit Court, Tenth Judicial Circuit of Florida, in and for De Soto County.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY,
a Corporation,

vs.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN and J. W. Bullock, as and Constituting the Board of County Commissioners of De Soto County, Florida.

This cause coming on to be heard upon the demurrer of the defendants to the bill of complaint and the same having been argued by counsel for the respective parties, and the Court being fully advised;

It is ordered that the said demurrer be and the same is hereby sustained and the bill of complaint filed in this cause is hereby dismissed at the cost of the complainant. The complainant excepts.

Done and ordered in Chambers at Lakeland, Florida, this the 17th day of June, A. D. 1918.

JOHN S. EDWARDS,
Judge.

[Circuit Court Seal.]

63 On the 5th day of July A. D. 1918, the complainant entered its appeal from the decree of the circuit court sustaining the demurrer of the defendants to the bill of complaint of complain-

ant and dismissing the bill of complaint, which said entry of appeal with the certificate of the Clerk showing recordation thereof is in the words and figures following:

In the Circuit Court of the Tenth Judicial Circuit of the State of Florida in and for De Soto County. In Chancery.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY,
a Corporation,

vs.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN
and J. W. Bullock, as and Constituting the Board of County Commissioners of De Soto County, Florida.

And now, on this 5th day of July, A. D. 1918, comes Charlotte Harbor & Northern Railway Company a corporation, complainant in the above entitled cause, and enters this, its appeal to the Supreme Court of Florida from the decree entered by the Court in said cause on the 17th day of June, A. D. 1918, and the said complainant makes this, its said appeal, returnable to a day in the June Term of our said Supreme Court, A. D. 1918, not less than thirty nor more than ninety days after the date of filing and recordation of this entry of appeal, to wit, to the 31st day of August, A. D. 1918.

Dated this 5th day of July, A. D. 1918.

McKAY & WITHERS,
TREADWELL & TREADWELL,
Solicitors for Complainant.

64 STATE OF FLORIDA,
County of De Soto:

I, A. L. Durrance, Clerk of the Circuit Court for the County of De Soto and State of Florida, do hereby certify that the foregoing entry of appeal was filed in my office on the 5th day of July, A. D. 1918, and on said date was entered and recorded in Chancery Order Book No. 3, page 271, records of said court.

Witness my hand and the seal of our said court on this 5th day of July, A. D. 1918.

[Circuit Court Seal.]

A. L. DURRANCE,
Clerk of Circuit Court for De Soto County, Florida.
By MURRAY HAYS,
D. C.

On the 5th day of July, A. D. 1918, the complainant filed its complete assignment of errors, which with the acceptance of service thereof by solicitors for the Defendants, is in words and figures following:

In the Circuit Court of the Tenth Judicial Circuit of the State of Florida in and for De Soto County. In Chancery.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation,
Complainant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN, and J. W. Builock, as and Constituting the Board of County Commissioners of De Soto County, Florida, Defendants.

And now comes the complainant in the above entitled cause and makes the following complete assignment of errors which it intends to rely upon for a reversal in the Supreme Court of Florida
65 of the decree entered by the Circuit Court in this cause on the 17th day of June, A. D. 1918:

First. Because the Court erred in entering said decree of June 17, A. D. 1918.

Second. Because the Court erred in sustaining the demurrer of the defendants to the bill of complaint of the complainant.

Third. Because the Court erred in said decree in dismissing the bill of the complainant.

Fourth. Because the Court erred in not overruling the demurrer of the defendants to the bill of complaint of the complainant.

McKAY & WITHERS,

TREADWELL & TREADWELL,

Solicitors for Complainant.

I hereby accept service and acknowledge receipt of a copy of the foregoing assignment of errors this 5th day of July, A. D. 1918.

JNO. W. BURTON,

Solicitor for Defendants.

66 And thereafter, to-wit, on the 7th day of October A. D. 1918, the said cause was submitted to the said Supreme Court of Florida upon briefs of counsel for the respective parties.

And thereafter, to-wit, on the 31st day of July A. D. 1919, the said Supreme Court of Florida did render and cause to be recorded its judgment in the above styled cause, the said judgment being in the words and figures following, to-wit:

CHARLOTTE HARBOR AND NORTHERN RAILWAY COMPANY, a Corporation, Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN, and J. W. Bullock, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

An Appeal from a Decree of the Circuit Court within and for the County of De Soto.

This cause having been submitted to the Court at a former term thereof upon the transcript of the record of the decree aforesaid and argument of counsel for the respective parties, and the record having been seen and inspected, and the Court being now advised of its judgment to be given in the premises, it seems to the Court that there is no error in the said decree; it is, therefore, considered, ordered and adjudged by the Court that the said decree of the Circuit Court be, and the same is hereby affirmed; it is further ordered by the Court that the appellees do have and recover of and from the appellant their costs by them in this behalf expended, which costs are taxed at the sum of \$—; all of which is ordered to be certified to the court below.

67 And thereupon, to-wit, on the 31st day of July, A. D. 1919, the said Supreme Court did render and file its opinion in the above styled cause, the said opinion being in the words and figures following, to-wit:

68 In the Supreme Court of Florida, De Soto County, June Term, A. D. 1919.

CHARLOTTE HARBOR AND NORTHERN RAILWAY COMPANY, a Corporation, Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN and J. W. Bullock, as and Constituting the Board of County Commissioners for De Soto County, Appellees.

WILSON, *Circuit Judge*:

The Charlotte Harbor and Northern Railway Company, as a taxpayer, on the 22nd day of February, 1918, filed its bill of complaint against W. G. Welles, L. W. Whitehurst, D. L. Skipper, W. M. Whitten and J. W. Bullock, constituting the Board of County Commissioners of De Soto County, Florida, seeking to enjoin the said County Commissioners from maintaining in De Soto County a special road and bridge district, known as the "Charlotte Harbor Special Road and Bridge District," and to restrain the assessment and collection of taxes against the property of the appellant situate

within the boundaries of said special road and bridge district, and also to restrain the County Commissioners from paying warrants issued, and from issuing other warrants in the said district to meet any of the obligations created in pursuance of the proposed "Charlotte Harbor Special Road and Bridge District" project.

69 It is alleged in the bill that previous to the creation of the said "Charlotte Harbor Special Road and Bridge District," the said County Commissioners had created in De Soto County what was known and designated as the "Punta Gorda Special Road and Bridge District."

It is further alleged that a large part of the "Charlotte Harbor Special Road and Bridge District" overlaps the territory embraced within the "Punta Gorda Special Road and Bridge District." The appellant owning in the new, or "Charlotte Harbor Special Road and Bridge District," alleges that said last mentioned special road and bridge district has no valid existence, and that the officers are without authority to levy special taxes on its property, by reason of the fact that said district overlaps and includes territory embraced in the "Punta Gorda Special Road and Bridge District". No objection is made to the regularity of the proceedings creating the two districts, and the sole question involved as to the legality of the "Charlotte Harbor Special Road and Bridge District," is the question of whether or not the formation of same partly within the territory of the "Punta Gorda Special Road and Bridge District" renders its creation invalid.

On the 29th of March, 1918, the appellee, defendant below, filed a demurrer to the bill of complaint. In view of the conclusion we have reached it is unnecessary to write the grounds of demurrer into this opinion. It is enough to say that the first ground was general, averring a lack of equity; the second ground avers, in substance, that the bill on its face shows the "Charlotte Harbor Special Road and Bridge District" was legally created and established; while the third and fourth grounds of the demurrer set up a claim of estoppel by laches upon the part of the complainant.

On the 17th of June, 1918, the chancellor entered final decree sustaining the demurrer, and dismissing the bill of complaint. From this decree the complainant entered its appeal to this court.

There are four assignments of error. The first complains that the court erred in entering the said decree of June 17th, 1918; the second, complains that the court erred in sustaining the demurrer to the bill of complaint; the third, complains that the court erred in dismissing the bill of complaint; while the fourth is the same as the second, stating that the court erred in not overruling the demurrer to the bill of complaint.

The first legislation in this State on the subject of creating special road and bridge districts was Chapter 6208, Laws of Florida, Acts of 1911. Section 1 provided, in substance, that whenever residents of any territory embraced wholly or in part, in one or more road districts, as at that time constituted, in any county of the State of Florida, desire to have such territory constituted into a special road and bridge district, and to have constructed within said special dis-

trict, permanent roads and bridges, they shall present to the Board of County Commissioners a petition signed by not less than twenty-five per cent of the registered voters who are freeholders residing within the territory which is proposed to constitute into a special road and bridge district. This petition shall describe by metes and bounds, or other accurate method, the territory which it is proposed to create into a special road and bridge district, and also set out in general terms a description and proposed location of the roads and bridges to be constructed, together with the amount estimated as being necessary with which to pay for the construction of same. The statute then provides for certain duties to be performed by the Board of County Commissioners in calling the election, &c. In this section it will be observed that there is no provision made by the legislature whereby the county commissioners might create districts either wholly or partly overlapping each other. The reference in this section to "territory embraced wholly or in part in one or more road districts," has reference to road districts as constituted at the time of the passage of this Act, and has no reference, whatever, to creating a "special road and bridge district" either partly or wholly within another special road and bridge district."

71 The demurrer to the bill of complaint admits the truth of the allegations of the bill that the "Charlotte Harbor Special Road and Bridge District" was created out of a part of and overlaps the boundaries of the "Punta Gorda Special Road and Bridge District," thus raising the question of whether or not this overlapping of the one upon the other district would render abortive the action of the county commissioners in undertaking to create the "Charlotte Harbor Special Road and Bridge District."

In view of the subsequent legislation on this matter, we do not deem it necessary to pass upon the authority of the county commissioners to create under Chapter 6208, Laws of Florida, Acts of 1911, special road and bridge districts, either partly or wholly overlapping each other. This point was doubtless pertinent at the time the demurrer was decided by the chancellor, but it is no longer so, and as the statute has been changed, and no further litigation is likely to arise under the one statute, there is no reason now for this court to determine this question.

The next legislation on the subject of special road and bridge districts was Chapter 6879, Laws of Florida, Acts of 1915. This legislation, however, did not amend or change section one of said Chapter 6208, Laws of Florida, Acts of 1911, and therefore, has no bearing upon the question at issue.

The next legislation on the subject was Chapter 7750, Laws of Florida, of the extraordinary session 1918. This Chapter, among other things, amends section 1 of Chapter 6208, Laws of Florida, Acts of 1911, and invests the county commissioners with authority to create into a special road and bridge district "territory embraced wholly or in part in one or more road districts, or wholly or in part in one or more 'special road and bridge districts,' as at that time constituted in any county of this State," thus, clearly defining the policy of the legislature towards the creation and maintenance of

special road and bridge districts within the counties of Florida. It is argued that in as much as the statute did not authorize the creation of the special road and bridge district overlapping another at the time the attempt was made to create the "Charlotte Harbor Special Road and Bridge District," that the legislature was without the power to pass an Act validating the action of the county commissioners in attempting to do so. We do not think this position is tenable.

The first question we deem entitled to consideration is one of the power of the legislature to pass an Act authorizing county commissioners in the several counties of the State, to create special road and bridge districts. Has the legislature the power to authorize by general Act the creation of this special road and bridge district in such a manner as that the boundaries of one may overlap upon another, or to create a new district partly or wholly within the boundaries of an existing district? Unless there is some constitutional limitation upon this point, such an Act would be entirely within the discretion of the legislature. In matters of State policy and law-making the legislature has plenary powers, limited only by the constitutions of the State of Florida, and of the United States. If an Act is regularly passed by the legislature and there is no constitutional limitation upon the power of the legislature to pass such an Act, then the Act is valid and binding however harsh or oppressive it may seem. This court will never substitute its will for the will of the legislature. There is no provision in the constitution which would inhibit the passage of such an Act by the legislature; therefore, the legislature, under its general power, was the sole judge of whether it should enact such legislation. This authority of the legislature has been upheld in other States with reference to the creation of drainage districts, the principle being the same as involved in the creation of the road districts. *Mittman v. Farmer*, 162 Iowa 364, 142 N. W. Rep. 991, Ann. Cas. 1915 C. 1. On page 9 Ann. Cas. 1915 C., there is a note to *Mittman v. Farmer*, citing many authorities which throw light on this subject. Among other things, it is said that, "a drainage district may be established to cover the same territory as a previously established district." *Kelly v. Drainage District No. 60 in Greene County*, 158 Iowa 735, 138 N. W. Rep. 841; *State ex rel. Marshall v. Bugg*, 224 Mo. 537, 123 S. W. Rep. 827. Also sub-district may be organized within the limits of an established district to meet the peculiar needs of a portion of the district. *People ex rel. Miller v. Scott*, 132 Ill. 427, 23 N. E. Rep. 1119; *People ex rel. v. Wilder*, 257 Ill. 304, 100 N. E. Rep. 932. "A drainage district may likewise include land forming a part of another district." *Bird v. Board of Sup'rs of Harrison County*, 154 Iowa 692, 135 N. W. Rep. 581; *Sibbett v. Steele*, 240 Mo. 85, 144 S. W. Rep. 439; *State ex rel. Sheffer v. Fuller*, 83 Neb. 784, 120 N. W. Rep. 495; *Wilson & Co. v. Wm. R. Compton Bond & Mortgage Co.*, 103 Ark. 452, 146 S. W. Rep. 110.

In *Maltby v. Tautges*, 50 Minn. 248, 52 N. W. Rep. 858, in the

body of the opinion the court says,—“the construction of highways and bridges furnishes one of the most common occasions for special legislation creating special taxing districts, frequently, several in number, and often overlying each other. Different taxing districts, for the same general purpose, may be thus created where there are peculiar reasons why one part of the public should bear a proportion of the burden greater than that which should be borne by another, and a greater rate of taxation be imposed on some districts than on others. This does not violate the principle of equality and uniformity of taxation if the establishment of several districts has only equality and justice in view.” 1 Cooley on Taxation (3rd ed.) page 234, discussing the establishment of districts, maintains that “the power to determine what shall be the tax district for any particular burden, is purely a legislative power, and not to be interfered with or controlled except as it may be limited or restrained by constitutional provisions. Reference to the cases cited will show that this is a principle which the courts assert with great unanimity and clearness. “The judicial tribunals cannot interfere with the legislative discretion, however onerous it may be.” The authorities cited are numerous.

74 See also *Stewart v. De Land-Lake Helen Special Road & Bridge Dist.* in Volusia County, 71 Fla. 158, text 161, 71 South. Rep. 42.

In *Hopkins v. Special Road and Bridge District No. 4*, in Brevard County, 73 Fla. 247, 74 South. Rep. 310, this court said,—“in authorizing the formation of special road and bridge districts in the county, the legislature may adopt any method it chooses, no constitutional limitation being thereby violated.”

Concluding that the legislature had the power to pass the Act in such form as to authorize the county commissioners to create districts overlapping each other, we turn now to the question of the validity of the Act of the extraordinary session of the legislature in 1918, which is Chapter 7750, Laws of Florida. It is suggested by counsel that in view of the fact that the “Charlotte Harbor Special Road and Bridge District” was organized with its boundaries overlapping upon the “Punta Gorda Special Road and Bridge District” prior to the passage of Chapter 7750, Laws of Florida, extraordinary session, 1918, authorizing county commissioners to create special road and bridge districts in territory wholly or in part in one or more special road and bridge districts, that the action of the county commissioners in creating “Charlotte Harbor Special Road and Bridge District,” was wholly without authority of law, and that the subsequent passage by the legislature of Chapter 7750, Laws of Florida, extraordinary session 1918, did not cure the existing illegality. We do not agree with the views suggested by counsel. Chapter 7750, Laws of Florida, extraordinary session 1918, is a curative Act, general in its nature, the first section of which grants to the county commissioners the power to create special road and bridge districts in their respective counties in any territory “embraced wholly or in part in one or more special road and bridge districts.” And section three which also includes section four

and a half as enacted, specially validates and declares legal all special road and bridge districts consisting of part or parts of one or more special road and bridge districts.

75 This section also provides further that this law shall not only have a prospective force and effect, but also a retroactive force and effect.

We are unable to find any provision in the Constitution of Florida prohibiting the passage of retroactive laws by the legislature, and in the absence of any express provision declaring such law inoperative and void, no law should be declared void simply because it may be retroactive in its action. 8 Cyc. page 1018.

Without discussing the question of whether or not the county commissioners had authority to create special road and bridge districts overlapping each other, at the time of the creation of the "Charlotte Harbor Special Road and Bridge District," we are clearly of the opinion that if the legislature had the power to put into the original bill, Chapter 6208, Laws of Florida, Acts of 1911, a declaration authorizing boards of county commissioners to create special road and bridge districts, lying wholly or in part in one or more other special road and bridge districts, it also had the power to pass an Act curing or validating the action of the county commissioners in creating a special road and bridge district partly lying in another special road and bridge district. This seems to be the general rule. 8 Cyc. 1023, and numerous authorities cited in the foot-note.

This doctrine has heretofore been recognized in this State. *City of Jacksonville v. Basnett*, 20 Fla. 525; *Cranor v. Volusia County Com'rs*, 54 Fla. 526, 45 South. Rep. 455; *Givens v. Hillsborough County*, 46 Fla. 502, 35 South. Rep. 88.

Objection is also made that Chapter 7750, Laws of Florida, extraordinary session 1918, is unconstitutional because it is claimed that it was not regularly passed by the legislature under the requirements of the constitution. We do not think the objection is well taken. We conclude that said Chapter is constitutional and valid, and that it authorized county commissioners in the several counties of the State to create special road and bridge districts in territory lying wholly or in part in one or more special road and bridge districts, and that it also validates and cures all special road and bridge districts, including the Charlotte Harbor Special Road and Bridge District, which were created by county commissioners from territory lying wholly or in part in one or more other special road and bridge districts.

Since the passage of Chapter 7750, Laws of Florida, extraordinary session 1918, the legislature in its regular session in 1919, passed a special validating Act, which is Chapter 8024, Laws of Florida, Acts of 1919, and was passed for the special purpose of legalizing, validating, establishing and creating "Charlotte Harbor Special Road and Bridge District" in De Soto County, and legalizing and validating the assessments made for the construction of roads and bridges therein; and validating and legalizing all warrants issued within said district for and in payment of expenses incident to the

creation and establishment thereof, and the building of roads and bridges therein. Section 1 of this Act validates the Acts of the Board of County Commissioners of De Soto County in creating and establishing the Charlotte Harbor Special Road and Bridge District. Section two validates all warrants theretofore issued, and all that should thereafter issue in connection with the building of roads and bridges in said district. Section three validates and legalizes the assessment and levy of taxes in the district. Section four deals with the funds of the special road and bridge district. Both Chapters 7750 and 8024 have been passed by the legislature since this case has been pending in this court. It became the duty of the court to take judicial notice of the said validating Act of the legislature, and to give it due recognition and effect. Such was the holding of this court in *Cranor v. Volusia County Com'rs*, supra, and the language used by Mr. Justice Taylor in writing the opinion in that case may be applied with equal force and effect in this case.

It is entirely useless now for this court to enter into any discussion of the question involved in the demurrer to the bill of complaint. Neither is it necessary to determine whether or not the chancellor was correct in his ruling on the demurrer, and his order dismissing the bill. Since that order was made, and since the case has been in this court, conditions have changed on account of the legislation just mentioned; and, as was said in the case last cited, "in consequence of such legislation, the complainant now has no stand in court or right to any relief by reason of the matters complained of in his said bill."

The decree of the chancellor overruling the demurrer and dismissing the bill of complaint should be affirmed.

Per Curiam:

The record in this cause having been considered by this court, and the foregoing opinion prepared under Chapter 7837, Acts of 1919, adopted by the court as its opinion, it is considered, ordered and adjudged by the court that the decree herein be and the same is hereby affirmed.

Browne, C. J., and Taylor, Whitfield, Ellis and West, JJ., concur.

78 And thereafter, to-wit, on the 7th day of August, A. D. 1919, came the appellant in said cause and filed in said Supreme Court a petition for re-hearing in said cause, which petition for rehearing is in the words and figures following, to-wit:

In the Supreme Court of Florida, June Term, A. D. 1919.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation, Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN and J. W. BULLOCK, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

To the Honorable Justices of the Supreme Court of Florida:

Your petitioner, Charlotte Harbor & Northern Railway Company, a corporation, would respectfully show unto the Court that it believes the Court, in deciding said cause on appeal, overlooked material considerations which your petitioner believes, if properly brought to the attention of the Court, would result in a decision of said cause reversing the decree of the Circuit Court for De Soto County, and your petitioner respectfully submits that the opinion of the Court affirming the decree of the Circuit Court of De Soto County herein is not based upon a due consideration of certain important questions of law that were presented by the briefs in said cause, but which were not clearly presented by the transcript of the record and the assignments of error made at the time the transcript

of the record was prepared, because said questions relate to certain acts of the Legislature passed subsequent to the entry of appeal in said cause, and which questions, therefore, could not have been presented for the consideration of the court by the transcript of the record.

First. Your petitioner respectfully calls the Court's attention to the fact that Chapter 7750 of the Laws of Florida, of the Extraordinary Session of the Legislature of 1918, attempts to validate certain acts of administrative officers of the State of Florida, to-wit, County Commissioners, which acts of said administrative officers were void ab initio and without jurisdiction, and, therefore, the said Chapter 7750 of the Laws of Florida creates a new obligation, imposes a new duty, or attaches a new disability to your petitioner in respect to transactions or considerations already past, and, insofar as the same imposes a liability on your petitioner for taxes previously levied under said proceeding of the County Commissioners, which was void ab initio and without jurisdiction, it amounts to a taking of the property of your petitioner without due process of law, which is prohibited by the Fourteenth Amendment to the Constitution of the United States.

Second. Your petitioner further respectfully suggests to the Court that the effect given by the Court in its opinion to Chapter 7750 of the Laws of the Extraordinary Session of the Legislature of 1918, causes the said Act in its operation to take the property of your petitioner without due process of law, contrary to the provisions of the Fourteenth Amendment to the Constitution of the United States, in that the said act, as applied by the Court, authorizes the enforcement

of a tax levied against the property of your petitioner prior to the passage of said Act of the Legislature under a proceeding of administrative officers of the State, to-wit, County Commissioners, which proceeding was void ab initio and without jurisdiction.

80 Third. Your petitioner respectfully submits that House Bill No. 518, passed by the Legislature of Florida at its General Session, 1919, entitled:

"An Act to Legalize and Validate the Establishment and Creation of Charlotte Harbor Special Road and Bridge District in De Soto County, Florida, and to Legalize and Validate the Assessment made for the Construction of Roads and Bridges therein; and to Validate and Legalize all Warrants Issued within said District for and in payment of Expenses Incident to the Creation and Establishment thereof and to the Building of Roads and Bridges therein."

is illegal, unconstitutional and void, and contrary to the provisions of the Fourteenth Amendment to the Constitution of the United States, in that the said bill attempts to legalize a proceeding of the County Commissioners of De Soto County, Florida, who were mere administrative officers and which proceeding was void ab initio and without jurisdiction, and under which proceeding certain taxes were levied against the property of your petitioner, prior to the passage of said Act of the Legislature, and therefore the said Act of the Legislature, in so far as it purports to create a liability on your orator for taxes previously assessed against your orator under a proceeding of said administrative officers void ab initio and without jurisdiction, operates to take the property of your petitioner without due process of law.

Fourth. Your petitioner further respectfully suggests to the Court that the Court, in its opinion, in giving effect to Chapter 7750 of the Laws of Florida, 1918, and House Bill No. 518 of the Laws of Florida, 1919, inadvertently applied the rule for construing said Acts that, if the Legislature could have, without violating some constitutional limitation, authorized the creation of the Charlotte Harbor Road and Bridge District as it was created in the first instance,

it could also by subsequent legislation ratify or validate the informal creation of the District, and that in applying this rule, the Court entirely overlooked the consideration that these two acts of the Legislature did not purport to cure and correct mere informalities in the creation of the Charlotte Harbor Special Road and Bridge District, but undertook to validate a proceeding of the County Commissioners that was void and without jurisdiction ab initio. It is suggested that the rule above referred to does not extend to or authorize the curing of jurisdictional defects whereby vested rights may be taken away, and that the application of the rule as made in this cause gives force and effect to Chapter 7750, Acts of 1918, and House Bill No. 518, Acts of 1919, that would cause the taking of your petitioner's property without due process of law, contrary to the provisions of the Fourteenth Amendment to the Constitution of the United States.

Wherefore your petitioner respectfully prays that a re-hearing may be granted, and that upon such rehearing the decree from which this appeal is prosecuted may be reversed.

And your petitioner will ever pray, etc.

McKAY & WITHERS,
TREADWELL & TREADWELL.
Solicitors for Petitioner.

82 And thereafter to-wit, on the 13th day of August, A. D. 1919, the said Supreme Court of Florida filed and caused to be recorded its order denying the said petition for re-hearing, which said order is in the words and figures following to-wit:

In the Supreme Court of Florida, June Term, A. D. 1919.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation,
Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN
and J. W. Bullock, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

A petition for re-hearing having been filed in this case and the same having been duly considered, it is ordered and adjudged by the Court that the same be and it is hereby denied.

83 STATE OF FLORIDA,
County of Leon

I, G. T. Whitfield, Clerk of the Supreme Court of the State of Florida, do hereby certify that the foregoing pages numbered from one to eighty-two, inclusive contain true and correct copies of the records filed and the proceedings had in the Supreme Court of the State of Florida in the case of Charlotte Harbor & Northern Railway Company, a corporation, Appellant, vs. W. G. Welles, L. W. Whitehurst, D. L. Skipper, W. M. Whitten and J. W. Bullock, as and constituting the Board of County Commissioners of De Soto County, Appellees, and of the opinions and decision of the said Supreme Court filed in said case on the 31st day of July A. D. 1919, and of the judgment of said court entered therein on said 31st day of July, A. D. 1919 and of the order of said Court denying the petition for rehearing therein filed and entered on the 13th day of August, A. D. 1919, as the same appear from the originals now on file and of record in my office as Clerk of the Supreme Court of the State of Florida.

Witness my hand and official Seal at Tallahassee, the Capital of the State, this the thirtieth day of October, A. D. 1919.

[Seal Supreme Court of the State of Florida.]

G. T. WHITFIELD,
Clerk Supreme Court, State of Florida.

84 And thereafter to-wit, on the 17th day of September, A. D. 1919, came the Appellant Charlotte Harbor & Northern Railway Company, a corporation, and filed in the said Supreme Court of Florida a petition for a writ of error to the Supreme Court of the United States, which petition for writ of error is in the words and figures following, to-wit:

In the Supreme Court of Florida, June Term. A. D. 1919.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation.
Appellant.

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIFFER, W. M. WHITTEN and J. W. BULLOCK, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

To the Honorable Jefferson B. Browne, Chief Justice of the Supreme Court of the State of Florida:

Charlotte Harbor & Northern Railway Company, a corporation organized under the laws of Florida, the appellant in the above entitled cause, shows by this petition to this Honorable Court that in the records, proceedings and decisions in the said Supreme Court of the State of Florida, the same being the highest court of said State in which a decision could be had in said suit, a manifest error has occurred, greatly to the damage of said Charlotte Harbor & Northern Railway Company, appellant.

That, as appears in the record and proceedings, there was drawn in question in said cause the validity of certain statutes of
85 the State of Florida, and authority exercised under said State, on the ground of their being repugnant to the Fourteenth Amendment to the Constitution of the United States, as follows:

The bill of complaint in this cause was filed in the Circuit Court of De Soto County on the 22nd day of February, 1918, and said bill was dismissed on the final decree of said Circuit Court entered on the 17th day of June, A. D. 1918. The appeal from said final decree to the Supreme Court of Florida was entered on the 5th day of July, A. D. 1918, and was duly prosecuted to the said Supreme Court of Florida in accordance with the rules of practice of said court and the laws governing the same. At the Extraordinary Session of the Legislature of the State of Florida held in the month of December, 1918, Chapter 7750 of the Laws of said Session, purporting to legalize and validate the establishment and creation of the road and bridge district attacked in said proceeding, was passed by the Legislature of Florida, and at the General Session of the Legislature of Florida, held in 1919, House Bill No. 518, otherwise known as Chapter 8024, Laws of Florida, Acts of 1919, was passed, which was a special Act purporting to legalize and validate the establishment and creation of the said road and bridge district at-

tacked in said proceeding. Inasmuch as said Acts of the Legislature had not been passed at the time of the filing of the bill of complaint in the Circuit Court or at the time of the entry of appeal in said cause, or of the filing of the transcript of the record in our said Supreme Court, no question under said Acts of the Legislature was or could have been presented to our said Supreme Court for decision under any assignments of error in said transcript. Upon said Acts of the Legislature being passed, leave was granted the appellant to attack the validity of said Acts in said proceeding.

86 by filing additional briefs therein, which briefs were duly filed, and in which briefs the validity of said Acts of the Legislature and the authority of the State of Florida exercised thereunder were directly attacked on the ground that the same violated the Fourteenth Amendment to the Constitution of the United States, notwithstanding which our said Supreme Court, in its decision and final judgment in said cause, held the said Acts of the Legislature to be valid and a legal exercise of authority by the State of Florida; whereupon the said appellant filed its petition in said Supreme Court of Florida for a rehearing of said cause, and in said said petition attacked the validity of said Acts of the Legislature and the authority of the State of Florida exercised thereunder as being in violation of the Fourteenth Amendment to the Constitution of the United States, and the said appellant in and by its said petition for a rehearing exercised the first and only right or privilege it had, under the circumstances of the case and the rules of practice of the said Supreme Court of Florida, to assign as a part of the record in said cause the said grounds of attack on the validity of said statutes and the authority the State of Florida exercised thereunder, and in the decision of said cause by the said Supreme Court of Florida, and in considering and denying the said petition for re-hearing, there was drawn into question and duly considered by the said Supreme Court of Florida the validity of the said Acts of the Legislature of Florida and the authority of the State of Florida exercised thereunder, and the decision of the said Supreme Court of Florida in said Cause, and in considering and denying the said petition for rehearing, was in favor of the validity of said Acts of the Legislature and the authority of the State of Florida exercised thereunder, all of which fully appears in the record and pro-dings

87 of the cause and is specifically set forth in the assignment of errors filed herewith

Wherefore petitioner prays that a writ of error be allowed and that a transcript of record, proceedings and papers upon which said decrees were rendered, duly authenticated, be ordered sent to the Supreme Court of the United States at Washington, D. C., under the rules of such Court in such cases made and provided, and that the same may be by said Honorable Court inspected and corrected in accordance with law and justice.

McKAY & WITHERS,
TREADWELL & TREADWELL,
Solicitors for Appellant.

88 And thereupon, to-wit, on the 17th day of September, A. D. 1919, came the Appellant, Charlotte Harbor & Northern Railway Company, a corporation, and filed in the Supreme Court of Florida, its assignment of errors herein, the same being in the words and figures following, to-wit:

In the Supreme Court of Florida, June Term, A. D. 1919.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation, Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN and J. W. BULLOCK, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

Now comes the appellant in the above stated cause and files the following as an assignment of the errors it intends to rely upon in the Supreme Court of the United States, on its writ of error prosecuted thereto in the said cause, viz:

First. The Supreme Court of Florida erred in holding and deciding that Chapter 7750 of the Laws of the Extraordinary Session of the Legislature of the State of Florida of 1918, and the authority exercised by the said State of Florida thereunder was and is valid and operated to cure and give validity, force and effect to the void proceeding attacked in the bill of complaint in this cause, and thereby sustained and upheld the right of the appellees to take the appellant's property without due process of law, contrary to the provisions of Section One of Article Fourteen of the Constitution of the United States.

89 Second. The Supreme Court of Florida erred in holding and deciding that House Bill No. 518, otherwise known as Chapter 8024 of the Acts of the Legislature of the State of Florida, General Session of 1919, and the authority exercised by the said State of Florida thereunder was and is valid and operated to cure and give validity, force and effect to the void proceeding attacked in the bill of complaint in this cause, and thereby sustained and upheld the right of the appellees to take the appellant's property without due process of law, contrary to the provisions of Section One of Article Fourteen of the Constitution of the United States.

Third. The Supreme Court of Florida erred in holding and deciding that the Legislature of Florida, by enacting Chapter 7750, Laws of the Extraordinary Session of 1918, and Chapter 8024 of the Laws of the General Session of 1919, could legally validate the void proceeding attacked in the bill of complaint filed in this cause and thereby impose a liability upon this appellant for the payment of Taxes levied and assessed against its property, without authority of law, and the said decision violates Section One of the Fourteenth Amendment to the Constitution of the United States, in that it ap-

proves and upholds the taking of the appellant's property without due process of law.

McKAY & WITHERS,
TREADWELL & TREADWELL,
Solicitors for Appellant.

90 And thereafter to wit, on the 7th day of October, A. D. 1919, the Chief Justice of the Supreme Court of Florida, made and filed in said Court an order granting the petition hereinbefore mentioned for a writ of error in said cause to the Supreme Court of the United States, which said order is in the words and figures following, to wit:

In the Supreme Court of Florida, June Term, A. D. 1919,

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation,
Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN and J. W. BULLOCK, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

At a stated term, to wit, the June term, A. D. 1919, of the Supreme court of the State of Florida, held at the Court Room in the City of Tallahassee, Florida, on the 7th day of October, 1919, upon the motion of McKay & Withers and Treadwell & Treadwell, solicitors for the above named appellant, and upon filing a petition for writ of error and assignment of errors, and it appearing that in the judgment of the Supreme Court of Florida to which said writ of error is prayed, and in the several respects in which the same is questioned by the said assignment of errors, there was drawn in question the validity of a statute of or authority exercised under the State of Florida, on the ground of their being repugnant to the Constitution of the United States, and the decision being in favor of their

91 validity, and as shown by the petition for writ of error, the said questions as to the validity of said statutes and the authority of the State of Florida exercised thereunder were raised by petition for rehearing in said cause, the same being the only manner in which said questions could have been raised in the record of said cause, under the circumstances of said cause and the rules of practice of said court; it is, therefore, ordered that a writ of error be and the same is hereby allowed to have reviewed in the Supreme Court of the United States the judgment of the said Supreme Court of the State of Florida heretofore rendered in this cause, the same to be returnable according to law; and the amount of security upon the said writ of error is hereby fixed at the sum of Five Hundred Dollars.

Done and ordered this 7th day of Oct. A. D. 1919.

JEFFERSON B. BROWNE,
*Chief Justice of the Supreme Court
of the State of Florida.*

92 "And thereafter, to wit, on the 18th day of October, A. D. 1919, the said Appellant Charlotte Harbor & Northern Railway Company, a corporation, filed in the Supreme Court of Florida a supersedeas bond as required by said allowance of writ of error herein which bond, with its approval by the Chief Justice of the said Supreme Court of Florida is in the words and figures following, to wit:

In the Supreme Court of Florida, June Term, A. D. 1919.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation, Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITTEN and J. W. BULLOCK, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

Know all men by these presents: That Charlotte Harbor & Northern Railway Company, a corporation organized under the laws of Florida, as principal, and National Surety Company, a surety company organized under the laws of Florida, as principal, and National Surety Company, a surety company organized and existing under the laws of the State of New York and duly authorized under the laws of Florida to do business as surety, are held and firmly bound unto W. G. Welles, L. W. Whitehurst, D. L. Skipper, W. M. Whitten and J. W. Bullock, as and constituting the Board of County Commissioners of De Soto County, in the penal sum of Five Hundred (500) Dollars, for the payment whereof well and truly to be made, they bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

93 Signed and sealed on this the 16th day of October, A. D. 1919.

The condition of the foregoing obligation is such that, Whereas the above named principal has sued out a writ of error from the judgment of the Supreme Court of the State of Florida in a certain cause therein pending, wherein it was appellant and the above named obligors were appellees, rendered in the June Term, A. D. 1919, by the said Supreme Court of Florida, wherein the said Court affirmed a certain decree of the Circuit Court of the Tenth Judicial Circuit of Florida, in and for De Soto County, the said writ of error being returnable to the Supreme Court of the United States, at Washington, on the 15th day of November, A. D. 1919.

Now, if the said principal shall prosecute said writ of error to effect and answer all damages and costs, if it fail to make its plea good, then this obligation shall become null and void; otherwise, it shall remain in full force and virtue.

CHARLOTTE HARBOR & NORTHERN
RAILWAY COMPANY,

By JAMES M. GIFFORD,
Vice President.

Attest:

FRANCIS A. HUCK,
Secretary.

NATIONAL SURETY CO.,
By N. W. HENSLEY,
Att'y-in-fact.

Taken and approved this 18th day of October, A. D. 1919.

JEFFERSON B. BROWNE,
Chief Justice of the Supreme Court of Florida.

94 And thereupon to wit, on the 18th day of October, A. D. 1919, the Attorneys and solicitor for the aforementioned Appellant and plaintiff in error Charlotte Harbor & Northern Railway Company, a corporation, filed in said Supreme Court of Florida a præcipe giving directions to the Clerk of said Court for making up transcript of the record and his return therein to the Supreme Court of the United States, which directions are in the words and figures following, to wit:

In the Supreme Court of Florida, June Term, A. D. 1919.

CHARLOTTE HARBOR & NORTHERN RAILWAY COMPANY, a Corporation, Appellant,

v.

W. G. WELLES, L. W. WHITEHURST, D. L. SKIPPER, W. M. WHITEN and J. W. BULLOCK, as and Constituting the Board of County Commissioners of De Soto County, Appellees.

In making up the transcript of record for the Supreme Court of the United States in the above stated cause, the Clerk of the Supreme Court of Florida will incorporate into and make parts of said transcript the following proceedings and no others, viz:

First. Transcript of record from Circuit Court as filed in the Supreme Court, omitting index, directions for making it, and the Clerk's certificate.

Second. Judgment of the Supreme Court of Florida.

Third. Petition for re-hearing.

Fourth. Order denying petition for re-hearing.

95 Fifth. Petition for writ of error to United States Supreme Court.

Sixth. Assignments of error filed with petition for writ of error.

Seventh. Order allowing writ of error.

Eighth. Supersedeas bond on writ of error.

Ninth. Opinion filed in the Supreme Court of Florida.

Tenth. These directions for making up transcript.

McKAY & WITHERS,
TREADWELL & TREADWELL,
Solicitors for Appellant.

Receipt of a copy of the foregoing directions is hereby acknowledged, and it is agreed that the Clerk of the Supreme Court of Florida may make up the transcript of record in accordance therewith.

JOHN W. BURTON,
Solicitor for Appellees.

96 UNITED STATES OF AMERICA,
Supreme Court of Florida:

In obedience to the commands of the within writ I herewith transmit to the Supreme Court of the United States a duly certified transcript of the complete record and proceedings in the within entitled cause with all things concerning the same and I further certify that the foregoing pages numbered from 84 to 95, inclusive, contain true and correct copies of the petition for writ of error and allowance thereof, of the writ of error bond, of the assignment of errors and of the directions to the Clerk for making up transcript of the record and receipt of attorneys for defendants in error for copy of such directions to the Clerk.

And I further certify that the original writ of error bond and copies of the original writ of error are now on file in my office as Clerk of the Supreme Court of the State of Florida.

In witness whereof I have hereunto subscribed my hand and affixed the seal of said Supreme Court of Florida in the City of Tallahassee, the Capital, this the 30th day of October, A. D. 1919.

[Seal Supreme Court of the State of Florida.]

G. K. WHITFIELD,
Clerk Supreme Court, State of Florida.

97 UNITED STATES OF AMERICA, ss:

The President of the United States of America to the Honorable the Judges of the Supreme Court of the State of Florida, Greeting:

Because in the record and proceedings as also in the rendition of the judgment of a plea which is in the said Supreme Court of the State of Florida before you, or some of you, being the highest court

of law or equity of the said State in which a decision could be had in the said suit between Charlotte Harbor & Northern Railway Company, a corporation, appellant, and W. G. Welles, L. W. Whitehurst, D. L. Skipper, W. M. Whitten and J. W. Bullock, as and constituting the Board of County Commissioners of De Soto County, Florida, appellees, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of or an authority exercised under said State on the ground of their being repugnant to the constitution, treaties or laws of the United States, and the decision was in favor of their validity; a manifest error hath happened to the great damage of the said Charlotte Harbor & Northern Railway Company, as by its complaint appears. We being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the 15th day of November next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Edward D. White, Chief Justice of the said Supreme Court, the 18th day of October, in the year of our Lord One Thousand Nine Hundred and Nineteen.

[Seal District Court, Northern Dist. of Florida.]

F. W. MARSH,
Clerk United States District Court
for Northern District of Florida,
By MIRIAM CHOATE,
Deputy Clerk.

Allowed by

JEFFERSON B. BROWNE,
Chief Justice of the Supreme Court
of the State of Florida.

Filed in Supreme Court, October 18th, 1919. G. K. Whitfield,
Clerk.

99 UNITED STATES OF AMERICA, ss:

To W. G. Welles, L. W. Whitehurst, D. L. Skipper, W. M. Whitten
and J. W. Bullock, as and Constituting the Board of County
Commissioners of De Soto County, Florida, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to writ of error filed in the Clerk's

office of the Supreme Court of the State of Florida, wherein Charlotte Harbor & Northern Railway Company, a corporation, is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the Supreme Court of the United States, this the 18th day of October, in the year of our Lord one thousand nine hundred and nineteen.

JEFFERSON B. BROWNE,

Chief Justice of Supreme Court of the State of Florida.

W. G. Welles, L. W. Whitehurst, D. L. Skipper, W. M. Whitten and J. W. Bullock, as and constituting the Board of County Commissioners of De Soto County, Florida, hereby accept service of the above citation.

JNO. W. BURTON,

Attorney for said Defendants in Error.

Endorsed on cover: File No. 27,354. Florida Supreme Court. Term No. 599. Charlotte Harbor & Northern Railway Company, plaintiff in error, vs. W. G. Welles et al., as and constituting The Board of County Commissioners of De Soto County, Florida. Filed November 13th, 1919. File No. 27,354.

IN THE
SUPREME COURT OF THE UNITED STATES.
OCTOBER TERM, 1920.

No. 599.

CHARLOTTE HARBOR & NORTHERN RAILWAY
COMPANY, PLAINTIFF IN ERROR,

v.

W. G. WELLES ET ALS., AS AND CONSTITUTING THE
BOARD OF COUNTY COMMISSIONERS OF DE SOTO COUNTY,
FLORIDA, DEFENDANTS IN ERROR.

IN ERROR TO THE SUPREME COURT OF THE STATE OF FLORIDA.

BRIEF FOR PLAINTIFF IN ERROR.

A suit in equity was filed in the Circuit Court of De Soto County, Florida, by plaintiff in error against defendants in error to restrain the collection of certain taxes assessed against the property of plaintiff in error. The bill charges that the tax complained of is illegal, null, and void, and was assessed wholly without warrant of law, because the special road and

bridge district for which the tax was assessed had been created in part out of two other road and bridge districts already existing, and that the law gave the County Commissioners no authority whatever to create a road and bridge district overlapping another one that had already been established. The proposition is clearly illustrated by the plat found between pages 24 and 25 of the record. A demurrer was filed to the bill, which was sustained and a final decree entered dismissing the bill. Appeal was, in due course, prosecuted from this final decree to the Supreme Court of Florida.

While the appeal was pending, the legislature of Florida, at the extraordinary session of 1918, passed chapter 7750, Laws of Florida, in which was included the following section:

"That all special road and bridge districts created and constituted of territory lying wholly or in part in one or more special road and bridge districts, as at that time constituted, are hereby validated and declared to be legally constituted, and shall not be adjudged or decreed, by any court of law or of equity, to be illegally constituted and created because of being in or consisting of part or parts of one or more special road and bridge districts. The provisions of this section shall not only have a prospective force and effect, but also a retroactive force and effect, and are applicable alike to special road and bridge districts heretofore created, now being created, or hereafter to be created under the authority of chapter 6208, Acts of 1911, and the amendments thereof."

At the general session of the legislature of Florida in 1919, chapter 8024 was passed, the pertinent sections of which are:

"SECTION 1. That the acts of the Board of County Commissioners of De Soto County, Florida, and each and every step, action, proceeding, and resolution taken and done by or by the authority of the said Board of County Commissioners, in creating and establishing Charlotte Harbor Special Road and Bridge District in De Soto County, Florida, embracing and

consisting of the territory in De Soto County, Florida, bounded as follows:

"Beginning at the northeast corner of township 40 south, range 23 east, thence west along township line to the northwest corner of township 40 south, range 21 east; thence south to the southwest corner of township 40 south, range 21 east; thence west along the township line to the Gulf of Mexico; thence southeasterly along the Gulf of Mexico to the south line of township 42 south, range 20 east; thence east along the south line of township 42 south to the southeast corner of township 42 south, range 26 east; thence north to the northeast corner of township 42 south, range 26 east; thence west to the northwest corner of township 42 south, range 26 east; thence north to the northeast corner of township 41 south, range 25 east; thence west to the southeast corner of township 40 south, range 23 east; thence north to place of beginning, be and the same are hereby legalized and validated and declared to be legal in all respects; and said special road and bridge district is hereby declared to be legally established as a special road and bridge district of De Soto County, Florida, and is vested with all the powers, authority, and privileges of a special road and bridge district.

"SEC. 2. That all warrants heretofore issued by the Board of County Commissioners of De Soto County, Florida, payable out of the special road and bridge tax, to be levied and collected in said district, in payment of work done or being done or services performed, or being performed, or otherwise, be, and the same are hereby, validated and declared legal; and all warrants which shall hereafter be issued by the Board of County Commissioners aforesaid, payable out of special road and bridge district tax in payment of work or material for the construction of the roads and bridges within said district, or for other legal purpose, be and the same are hereby validated and declared legal.

"SEC. 3. That each and every assessment and levy of taxes made and authorized to be made by said Board of County Commissioners, within said Char-

lotte Harbor Special Road and Bridge District, be, and the same are hereby validated and declared legal, and all future assessments and levies to be made for the purpose of providing funds with which to pay warrants, or other evidence of debt, issued in payment of the cost of constructing roads and bridges within said road and bridge district, or for other legal purposes, be, and the same are hereby, validated and declared legal in all respects.

"SEC. 4. That the fund created by the collection of the special road and bridge tax levied within said special road and bridge district be kept as a special fund for the payment of and used in paying the warrants issued against said fund for work and labor performed and services done and other expenses legally incurred in the creation of said special road and bridge district, and in the construction and maintenance of the roads and bridges authorized to be constructed therein."

After the passage of these two acts the cause came on to be heard in the Supreme Court of Florida, and the court declined to decide the question presented by the appeal, assigning as its reason that the road and bridge district attacked had been validated by the acts above quoted. It appears from the opinion of the court, found at pages 43 to 49, inclusive, of the record, that it was urged upon the court that the two acts of the legislature, as applied to this case, are in conflict with the Constitution of the United States, and that this contention was expressly denied by the court.

After the decision of the case by the Supreme Court, a petition for a rehearing was filed in that court, in which the contention was expressly made that said statutes are repugnant to section 1 of the Fourteenth Amendment to the Constitution of the United States, in that the authority asserted by the State under the same, if upheld, would result in the taking of the property of the plaintiff in error without due process of law. The petition for rehearing was denied.

Application was then made to the Supreme Court of Florida for a writ of error from this court. In granting the writ of error, the Chief Justice of the Supreme Court of Florida in his order recited as follows:

"the said questions as to the validity of said statutes and the authority of the State of Florida exercised thereunder were raised by petition for rehearing in said cause, the same being the only manner in which said questions could have been raised in the record of said cause, under the circumstances of said cause and the rules of practice of said court;"

The question raised by this record is a narrow one and may be briefly stated as follows:

"When administrative officers of a political subdivision of a State have, through a proceeding wholly without legal authority, levied a tax upon the property of a citizen, can the legislature, by a retroactive statute, ratify such usurpation of power by such administrative officers, and thereby impose a legal obligation on the property-owners affected, to pay the tax so originally levied without jurisdiction?"

The errors specified and relied on by plaintiff in error are as follows:

First. The Supreme Court of Florida erred in holding and deciding that chapter 7750 of the Laws of the Extraordinary Session of the Legislature of the State of Florida of 1918 and the authority exercised by the said State of Florida thereunder was and is valid and operated to cure and give validity, force, and effect to the void proceeding attacked in the bill of complaint in this cause, and thereby sustained and upheld the right of the appellees to take the appellant's property without due process of law, contrary to the provisions of section 1 of article 14 of the Constitution of the United States.

Second. The Supreme Court of Florida erred in holding and deciding that House Bill No. 518, otherwise known as chapter 8024 of the Act of the Legislature of the State of Florida, General Session of 1919, and the authority exercised by the said State of Florida thereunder was and is valid and operated to cure and give validity, force, and effect to the void proceeding attacked in the bill of complaint in this cause, and thereby sustained and upheld the right of the appellees to take the appellant's property without due process of law, contrary to the provisions of section 1 of article 14 of the Constitution of the United States.

Third. The Supreme Court of Florida erred in holding and deciding that the Legislature of Florida, by enacting chapter 7750, Laws of the Extraordinary Session of 1918, and chapter 8024 of the Laws of the General Session of 1919, could legally validate the void proceeding attacked in the bill of complaint filed in this cause and thereby impose a liability upon this appellant for the payment of taxes levied and assessed against its property without authority of law, and the said decision violates section 1 of the Fourteenth Amendment to the Constitution of the United States, in that it approves and upholds the taking of the appellant's property without due process of law.

Record, pp. 55-56.

At the time this suit was instituted in the Circuit Court for De Sota County, Florida, no Federal question was involved. The sole issue depended upon the construction of existing State statutes. The ruling of the circuit court upon this issue was adverse to the complainant. The appeal to the Supreme Court was taken from that ruling, and the record as made up for the Supreme Court presented the same question. After the record had been filed in the Supreme Court and while the appeal was pending, the legislature attempted, by

passing the acts complained of, to destroy the appellant's cause of action, and in disposing of the appeal the Supreme Court ruled that the legislature had legally accomplished this purpose.

There was no authorized procedure available to the appellant whereby it could amend the record in the Supreme Court before the decision on the appeal and thereby directly raise the issue that these acts are obnoxious to the Federal Constitution. The Federal question could be raised only, as stated by the Chief Justice of the Florida Supreme Court in his order allowing the writ of error, by a petition for rehearing. This petition for rehearing did not raise a question that was open at the time the suit was instituted or at the time the appeal was filed in the Supreme Court. It questioned the legality under the Federal Constitution of acts of the legislature passed after the appeal to the Supreme Court had been perfected, in so far as such acts are applicable to the pending cause. In a sense, the petition for a rehearing in this cause was an original proceeding in the Supreme Court, raising a Federal question with reference to a pending cause.

It is submitted that the rule applied by this court in many cases, refusing to take jurisdiction of a Federal question raised for the first time by a petition for rehearing, has no application to a cause in the peculiar circumstances presented by this record. If the rule should be so applied, then no litigant could ever have the benefit of a ruling of this court on the legality of an act of the legislature of Florida affecting a cause pending in the Supreme Court.

Assuming, therefore, that the Federal question is properly raised, the plaintiff in error submits that the one question presented by the record should be answered in the negative.

It is, of course, necessary to assume that the bill of complaint is well founded in law, and that the Circuit Court of De Soto County erred in sustaining the demurrer and dismissing the bill. While this was not determined by the Su-

preme Court, the reason given for not deciding it was that the legislature had foreclosed it by the passage of the two acts complained of. Therefore, if the Supreme Court of Florida erred in holding that these two acts, as applied to the pending cause, did not violate section 1 of the Fourteenth Amendment to the Federal Constitution, such erroneous ruling deprived the appellant (plaintiff in error here) of its constitutional right to a decision of the court of last resort of this State upon the question presented on appeal; or, in other words, denied to it the equal protection of the laws of this State.

There are limitations upon the power of a State legislature to pass retroactive legislation.

“If the thing wanting or which failed to be done, and which constituted the defect in the proceedings, is something the necessity for which the legislature might have dispensed with by prior statute, then it is not beyond the power of the legislature to dispense with it by subsequent legislation.”

is a rule stated by text-writers and frequently approved by the courts. The contention of the plaintiff in error, however, is that this rule was improperly applied to this case, because the legislation complained of did not merely dispense with something that it might have dispensed with by prior statute, but undertook to ratify and validate a tax levied upon the property of the plaintiff in error by administrative officers, without any warrant of law whatever; in other words, the legislation was not *curative*, but was *creative* of a right to take the property of the plaintiff in error by an *unlawful act* done *prior* to the passage of the statute.

The proceeding under which the County Commissioners of De Sota County levied the tax complained of was extrajudicial, because the commissioners were without legal authority to establish the road and bridge district attacked, and were mere usurpers in assuming to create the district and levy

a tax upon the property of the plaintiff in error to meet the expenses of its establishment and maintenance. Legally the district did not exist.

"A healing statute must in all cases be confined to validating acts which the legislature might previously have authorized. It cannot make good retrospectively acts or contracts which it had and could have no power to permit or sanction in advance." * * * "If township officers should attempt to do acts under the power of taxation which could not lawfully be justified as an exercise of that power, no subsequent legislation could make them good." * * * "if persons or property should be assessed for taxation in a district which did not include them, not only would the assessment be invalid, but a healing statute would be ineffectual to charge them with the burden. In such a case there would be a fatal want of jurisdiction; and even in judicial proceedings, if there was originally a failure of jurisdiction, no subsequent law can confer it."

Cooley's Constitutional Limitations, 6th ed., pp. 469-70-71.

The legislature could not have ratified the tax, *previously* assessed, to support a district which did not legally exist; therefore it could not, by indirection, ratify a district established without jurisdiction and thereby ratify the illegal tax.

Andrews v. Beane, 15 R. I., 451.

There can be no distinction between an assessment of property for taxation in a district which does not include it and an assessment of property for taxation in a district which does not legally exist.

The legislature cannot cure a proceeding void for want of jurisdiction.

Israel v. Arthur (Colo.), 1 Pac., 438.

Roche v. Waters (Md.), 18 Atl., 866.

Denny v. Mattoon, 84 Mass. (2 Allen), 361.

Pryor v. Downey, 50 Calif., 388; 19 Am. Rep., 656.

The authorities next above cited relate to legislative attempts to cure jurisdictional defects in judicial proceedings. In principle, the rule must be the same if the extrajudicial acts are those of the administrative officers of a political subdivision of the State.

The following authorities deal with extrajudicial acts of administrative officers held beyond the power of curative legislation.

Smith v. Sherry (Wis.), 11 N. W., 465.

In that case a tax deed had been issued by a tax officer who had not proceeded so as to acquire jurisdiction of the subject-matter. In an action brought under the tax deed after the lapse of the statutory period of limitation, under the following statute:

"Every action or proceeding for the recovery of lands heretofore sold or which may hereafter be sold for the non-payment of taxes heretofore levied, shall be commenced within nine months after the recording of the tax deed, and not thereafter,"

the court held, that although this act would operate upon any tax deed subject to attack for irregularities leading up to its issuance, yet it could have no effect upon a tax deed issued in a case in which the tax officer had not proceeded in such manner as to acquire jurisdiction.

In *Forster v. Forster*, 129 Mass., 559, the holding is to the same effect.

Maguiar v. Henry, 84 Ky., 1; 4 Am. St. Rep., 182.

"The legislature cannot deprive a defendant of a vested right to an existing material defense. It may, by a subsequent statute, cure a mere irregularity in a proceeding, if it could have dispensed with it by prior statute; but it has no power, by a subsequent curative statute, to remedy a jurisdictional defect or one which goes to the substance of a vested right."

The distinction between a curative act and a retroactive act that is beyond the power of the legislature is illustrated by the following language from the opinion of the court in the case of *McCord v. Sullivan*, 85 Minn., 344; 88 N. W., 989; 89 Am. St. Rep., 561:

"This, however, does not authorize the passage of healing statutes curing jurisdictional defects whereby vested rights may be taken away. The legislature might, it is true, have provided a notice different from that required by section 1591, *supra*; but from that it does not follow that a failure of compliance with such a statute may be cured by subsequent legislation. A partial compliance with the statute as to jurisdictional matters is wholly ineffectual for any purpose and the proceedings in this case as to the sale stand as though no attempt had been made to sell the property pursuant to the tax judgment at all."

Retroactive legislation that is beyond the power of the legislature has been defined by Judge Story in the case of *Society for Propagation of the Gospel v. Wheeler*, Federal Cases, No. 13156, as follows:

"Upon principle, every statute which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past, must be deemed retrospective."

Other cases adopting this definition or holding that legislation coming within it is beyond the power of the legislature are:

Sturges v. Carter, 114 U. S., 512; 29 L. Ed., 241.

Hamilton County Commissioners v. Rosche Bros., 50

Ohio State, 143; 52 L. R. A., 584.

Lincoln v. U. S., 202 U. S., 495; 50 L. Ed., 1117.

De Lima v. Bidwell, 182 U. S., 45 L. Ed., 1041.

The acts of the Florida legislature complained of create a new obligation, impose a new duty, and injuriously affect the vested rights of the plaintiff in error on account of a transaction already past:

(a) The County Commissioners were without lawful authority to create the road and bridge district, and therefore the district did not legally exist.

(b) The tax imposed upon the property of plaintiff in error to pay for the establishment of the district was not a legal obligation, because the district did not legally exist, and therefore the County Commissioners had no legal authority to levy the tax.

(c) The acts of the legislature, as applied by the Supreme Court of Florida to this case, fasten upon the plaintiff in error a liability for taxes in relation to a past transaction, viz., *assessments for previous years*, when such liability did not exist at the time the acts were passed.

The Supreme Court of Florida, contrary to the application made by it of the law to the facts in this case, has correctly stated the law limiting the power of the legislature in passing curative acts in *City of Orlando v. Giles*, 51 Fla., 422; 40 So. Rep., 834, p. 839, approving the case of *People v. Goldtree*, 44 Calif., 325, as follows:

"It will readily be conceded that the Legislature possesses the power to pass curative acts, by which the various acts and proceedings of the officers and boards charged with the levying and assessing of taxes are rendered valid and legal, notwithstanding that irregularities and errors have intervened; and the cases are quite harmonious on the point in other States as well as this. There are, however, defects which are mostly either of a jurisdictional character or those which become such by reason of some constitutional provision, which are beyond the reach of curative acts. It is

impossible to draw a well-defined line between the classes of defects which may, and those which may not, be remedied by curative legislation; nor are the authorities on the subject reconcilable. There are defects which, under our constitution, are incurable by any subsequent legislation, such as an assessment of property situated without the assessor's county or district, an assessment made by the board of equalization, the exemption of particular property or a particular person's property from taxation, the levying of different rates of taxation upon different species of property, and a judgment for the recovery of taxes rendered in a case in which the court ~~had not~~ acquired jurisdiction of the person assessed; and the enumeration might be extended. In those instances the defect consists of a want of power or jurisdiction in the officer or tribunal assuming to act in the matter; and we think it may safely be laid down as a rule in these matters that whenever the officer had no power or jurisdiction to do the act in question, and not that in its performance he did not pursue the law in respect to time, mode, or some other particular, the act is void, and subsequent legislation cannot cure the defect."

This statement of law would seem to fit the case presented by this record in all respects, because it cannot be disputed—

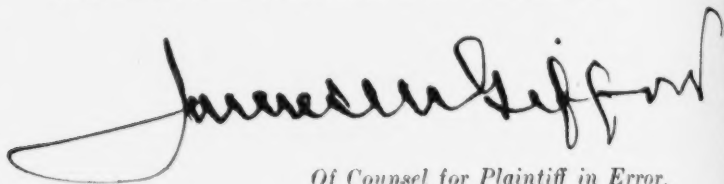
(a) That the County Commissioners had no power or jurisdiction to establish a special road and bridge district overlapping another; or

(b) To levy a tax to provide for the establishment and maintenance of a district so established without jurisdiction.

The levy of the tax was void for want of jurisdiction. It was not merely subject to objection that the officers levied it in the performance of their duties, but did not pursue the law in respect to time, mode, or in some other particular.

It is, therefore, respectfully submitted that these acts of the

Florida legislature, in so far as they attempt to validate the *previous* levy of taxes under this void proceeding, are in excess of the power of the legislature, and that the effect given to these acts by the Supreme Court of Florida amounts to a taking of the property of the plaintiff in error without due process of law, in violation of section 1 of the Fourteenth Amendment to the Constitution of the United States.



Of Counsel for Plaintiff in Error.

(2373)

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Affirmed.

**CHARLOTTE HARBOR & NORTHERN RAILWAY
COMPANY v. WELLES ET AL., CONSTITUTING
THE BOARD OF COUNTY COMMISSIONERS OF
DE SOTO COUNTY, FLORIDA.**

ERROR TO THE SUPREME COURT OF THE STATE OF FLORIDA.

No. 4. Submitted March 16, 1921; restored to docket for oral argument March 21, 1921; argued October 4, 1922.—Decided October 16, 1922.

A special improvement tax which was void when assessed, for want of statutory authority in the officers who undertook the improvement, may be validated by the legislature consistently with the due process clause of the Fourteenth Amendment. P. 11. *Forbes*

Pioneer Boat Line v. Board of Commissioners, 258 U. S. 338, distinguished.

78 Fla. 227, affirmed.

ERROR to a decree of the Supreme Court of Florida affirming a decree dismissing the bill in a suit to enjoin collection of a special road improvement tax, etc.

Mr. Kenneth I. McKay, with whom *Mr. James M. Gifford* was on the brief, for plaintiff in error.¹

No appearance for defendants in error.

MR. JUSTICE McKENNA delivered the opinion of the Court.

Bill in equity to declare illegal the creation of a special road and bridge district, designated as the Charlotte Harbor Special Road and Bridge District, in De Soto County, Florida, and to restrain the defendants in error, as and constituting the Board of County Commissioners, from paying out any funds in settlement of any supposed obligations contracted for work done in pursuance of the plan proposed. And further, to enjoin the Commissioners, until the final hearing in this cause, from contracting any further obligations, or paying out any further moneys, on account of the construction of roads and bridges under the plan proposed, and for such other and further relief as equity may require.

The ground of the suit and for the relief prayed is, that the district was constituted of territory which overlapped territory included in another district theretofore created, and that, therefore, the Board of Commissioners, to which the creation of the district was committed by the law of the State, as the law then existed, was without power to establish the district.

¹At the former hearing the case was submitted by *Mr. Gifford*, on behalf of the plaintiff in error.

The Board of Commissioners demurred to the bill, and alleged, as the grounds thereof, the insufficiency of the bill to authorize equitable relief, and, besides, alleged that complainant was estopped by not complaining earlier, and, by its delay, had permitted the expenditures of money by the Board of Commissioners.

The demurrer was sustained and a decree entered dismissing the bill. The decree was affirmed by the Supreme Court of the State and to its decision this writ of error is directed.

The opinion of the court considers and disposes of all state questions, including the one pertinent to our consideration; that is, that the legislature had power to create special road and bridge districts which overlapped, and having that power, it also had the power "to pass an Act curing or validating the action of the county commissioners in creating a special road and bridge district partly lying in another special road and bridge district." "This," the court said, "seems to be the general ruling. 8 Cyc. 1023, and numerous authorities cited in the footnote."

The court, therefore, sustained the act which is attacked, taking judicial notice of it, it having been passed pending the suit. C. 8024, Laws of Florida, Acts of 1919. The court said it was passed for the special purpose of validating the action of the Commissioners, "and legalizing and validating the assessments made for the construction of roads and bridges" in the newly created district, the indebtedness incurred and the warrants issued for the payment of the expenses incident thereto, or which should thereafter issue; and also validated and legalized the assessments and levy of taxes in the district.

The court further said that that doctrine had theretofore been recognized in the State. Cases were adduced, and (adopting the language of one of them,) the conclusion was expressed, that in consequence of such legisla-

tion, the complainant had no standing in court or right to any relief by reason of the matters complained of in its bill.

In a petition for rehearing, plaintiff in error attacked the reasoning and conclusion of the court, and asserted against them the inhibition of the Fourteenth Amendment of the Constitution of the United States which precludes a State from the taking of property without due process of law. The specification of the grounds is that "the said bill [to quote from it], attempts to legalize a proceeding of the County Commissioners of De Soto County, Florida, who were mere administrative officers and which proceeding was void ab initio and without jurisdiction, and under which proceeding certain taxes were levied against the property of your petitioner, prior to the passage of said Act of the Legislature, and therefore the said Act of the Legislature, in so far as it purports to create a liability on your orator for taxes previously assessed against your orator under a proceeding of said administrative officers is void ab initio and without jurisdiction." The court considered the petition for rehearing and denied it.

In support of the contention of the petition, plaintiff in error makes a distinction between a *curative* statute, which it is conceded a legislature has the power to pass, and a *creative* statute, which, it is the assertion, a legislature has not the power to pass. The argument in support of the distinction is ingenious and attractive, but we are not disposed to review it in detail.

The general and established proposition is that, what the legislature could have authorized, it can ratify if it can authorize at the time of ratification. *United States v. Heinzen & Co.*, 206 U. S. 370; *Wagner v. Baltimore*, 239 U. S. 207; *Stockdale v. Insurance Companies*, 20 Wall. 323. And the power is necessary, that government may not be defeated by omissions or inaccuracies in the ex-

Argument for Plaintiff in Error.

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ercise of functions necessary to its administration. To this accommodation, *Forbes Pioneer Boat Line v. Board of Commissioners of Everglades Drainage District*, 258 U. S. 338, is not militant. The case concedes the power of ratification and declares the principle upon which it is based and, necessarily, recognized the subjection and obligation of persons and property to government, and for government, and its continuation for the purposes of government. And the recognition precludes a misunderstanding of the case and its extension beyond its facts. It was concerned with an attempt to impose a charge for the use of a government canal, for which use, at the time availed of, there was no charge—an attempt, therefore, to turn a gratuity conferred and enjoyed into a legal obligation and subject it to a toll.

Decree affirmed.